TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 324 80.

THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY ET AL., PLAINTIFFS IN ERROR,

vs.

WIRT ADAMS, STATE REVENUE AGENT.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI.

FILED JUNE 8, 1899.

(17,488.)

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COMPANY ET A

WIRT ADAMS,

IN ERROR TO THE SUPREM

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(17,438.)

RT OF THE UNITED STATES.

BER TERM, 1899.

No. 324.

MISSISSIPPI VALLEY RAILROAD
AL., PLAINTIFFS IN ERROR,

vs.

S, STATE REVENUE AGENT.

EME COURT OF THE STATE OF MISSISSIPPI.

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1 Supreme Court of Mississippi, March Term, A. D. 1899.

Pleas and proceedings had and done at a regular term of the supreme court of Mississippi, begun and held in the court-room, in the capitol, in the city of Jackson, on the first Monday, the sixth day, of March, in the year of our Lord one thousand eight hundred and ninety-nine.

Present: The Honorable Thomas H. Woods, chief justice, and the Honorable Albert H. Whitfield and the Honorable S. H. Terral, associate justices; E. W. Brown, clerk of said court, in person, and by C. C. Campbell, his deputy; Thomas J. Wharton, marshal, and Thomas Grant, porter.

Proclamation being made, court proceeded to the dispatch of business.

2 Pleas and proceedings had and done at a regular term of the circuit court in and for the first district of the county of Hinds, State of Mississippi, begun and held at the court-room, in the city of Jackson, on the 2nd Monday, being the 12th day, of July, A. D. 1897, before the Honorable Robert Powell, judge of the seventh judicial district of said State and presiding judge of said court.

Be it remembered that heretofore, to wit, on the 7th day of July, 1897, there was filed in the clerk's office of said court a certain declaration, with the endorsement thereon, — is in words and figures following, to wit:

In the Circuit Court of the 1st District of Hinds County, Miss., to July Term, 1897.

WIRT ADAMS, State Revenue Agent, &c.,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY.

Comes the plaintiff, Wirt Adams, State revenue agent, duly elected and qualified as such officer, and holding the same under the laws of the State of Mississippi, who here sues for the use and benefit of the following incorporated cities and towns in said State, to wit, Jackson, Flora, Yazoo City, Thornton, Tchula, Cruger, Lexington, Durant, and Greenwood, and complains of the defendant, The Yazoo & Mississippi Valley Railroad Company, a corporation chartered under the laws of the State of Mississippi, and owning and operating a railroad through said district, county, and State, and running through all the above-named cities and towns, and for cause of action shows as follows:

That all of said cities and towns were prior to the year 1893 and continuously from then up to the present time and are now duly incorporated and chartered under the laws of the State of Mississippi, and under their said charters have the power to levy, assess,

and collect taxes upon property subject to taxation within their corporate limits; that in and for the years 1893, 1894, 1895, and
3 1896 all of said cities and towns duly and properly made levies for taxes for municipal purposes on all property subject to taxation by them as follows, to wit: The city of Jackson made a levy of 13 mills for the year 1893, a levy of 14 & ½ mills for 1894, a levy of 13 mills for 1895, a levy of 13 mills for 1896.

The town of Flora made a levy of 3 & ½ mills in and for each of said four years.

The city of Yazoo City made a levy of 11 & ¼ mills for 1893, *a levy of 11 & ¼ mills for 1893*, a levy of 10 & ½ mills for 1894, and a levy of 10 mills in — for each of the years 1895 and 1896.

That the town of Thornton for 1893 made a levy of 6 mills, and for 1894 it made a levy of 6 mills, and for 1895 it made a levy of 6 mills, and for 1896 it made a levy of 6 mills.

The town of Tchula for and in each of said years made a levy of 5 mills.

The town of Cruger for 1893 made a levy of 6 mills, and for 1894 a levy of 6 mills, and for 1895 a levy of 6 mills, and for 1896 it made a levy of 6 mills.

The town of Lexington for 1893 made a levy of 12 mills, and for 1894 it made a levy of 10 mills, and in — for 1895 and 1896 each it made a levy of 11 mills.

The town of Durant for 1893 made a levy of 6 mills, and for 1894 a levy of 6 mills, and for 1895 a levy of 6 mills, and for 1896 a levy of 6 mills.

The town of Greenwood in 1893 made a levy of 5 mills, and for 1894 a levy of 5 mills, for 1895 a levy of 5 mills, and in 1896 a levy of 9 mills, said several levies for taxes made for several years by said cities and towns being on each dollar on the value thereof of all property subject to municipal taxation.

That during all of said years said defendant owned and possessed valuable property in all of said cities and towns, consisting of railroad bed, tracks, side tracks, switches, and depot buildings of the value within each of said cities and towns as hereinafter
4 given, and which was subject to municipal taxes as levied by said cities and towns.

That the said property of defendant has been duly and properly assessed for said city and town taxes according to its value in and for all of said cities and towns for all of said years—that is to say, it was assessed for the taxes of 1893 for the city of Jackson at a valuation of $5,175.00, and for 1894 at $5,175.00, and for 1895 at $5,175.00, and for 1896 at a valuation of $5,175.00.

That for the town of Flora it was assessed for the year 1893 at a valuation of $9,452.00, and for 1894 at a valuation of $9,452.00, and for 1895 at a valuation of $9,450.00, and for 1896 at a valuation of $9,450.00.

That for Yazoo City it was assessed for 1893 at a valuation of $23,886.00, and for 1894 it was assessed at a valuation of $24,073.00, and for 1895 it was assessed at a valuation of $23,752.00, and for 1896 it was assessed at a valuation of $23,752.00.

That for the town of Thornton it was assessed for the year 1893 at a valuation of $3,755, and for 1894 at $3,755, and for 1895 at $3,932.00, and for 1896 at a valuation of $3,932.00.

That for the town of Tchula it was assessed for 1893 at a valuation of $9,916.00, and for 1894 at $9,916.00,and for 1895 at $9,913.00, and for 1896 it was assessed for $9,813.00.

That for the town of Cruger it was assessed for 1893 at $9,466.00, for 1894 at $9,466.00, for 1895 at $9,464.00, and for 1896 at a valuation of $9,464.00.

That for the town of Lexington it was assessed for the year 1893 at a valuation of $11,760.00, and for 1894 at $11,760.00, and for 1895 at $12,058.00, and for 1896 at a valuation of $12,058.00.

That for the town of Durant it was assessed for the taxes of 1893 at a valuation of $3,900.00, and for 1894 at $3,905.00, and for 1895 at $3,904.00, and for 1896 at a valuation of $3,904.00.

That for the town of Greenwood it was assessed for the taxes of 1893 at a valuation of $10,016.00, for 1894 at $10,199.00, and
5 for 1895 at $12,206.00, and for 1895 at a valuation of $12,206.00.

All of which levies and assessments the said defendant has wholly neglected and refused to pay.

That by reason of said levies and assessments and the defendant's neglect and refusal to pay its said taxes aforesaid it became liable to pay and is indebted to the city of Jackson in the sum of $93 275/1000 for the taxes of 1893, and in the sum of 104 03/100 for the taxes of 1894, and in the sum of $93 215/1000 for the taxes of 1895, and in the sum of $93 275/1000 for the taxes of 1896.

And for the reason aforesaid it became liable to pay and is indebted to the town of Flora in the sum of $32 082/1000 for the taxes of 1893, and the sum of $32 082/1000 for the taxes of 1894, and the sum of 32 375/1000 for the taxes of 1895, and the sum of 32 075/1000 for the taxes of 1896.

And for the reason aforesaid it became liable to pay and is indebted to the city of Yazoo City in the sum of $268 715/1000 for the taxes of 1893, and in the sum of $252 765/1000 for the taxes of 1894, and in the sum of $237 52/00 for the taxes of 1895, and in the sum of 237 52/100 for the taxes of 1896.

And for the reason aforesaid it likewise became liable to pay and is indebted to the town of Thornton in the sum of $22 53/100 for the taxes of 1893, and the sum of $22 53/100 for the taxes of 1894, and the sum of $23 592/1000 for the taxes of 1895, and the sum of 23 592/1000 for the taxes of 1896.

And for the reason aforesaid it likewise became liable to pay and — indebted to the town of Tchula in the sum of $49 58/100 for the taxes of 1893, and the sum of $49 58/100 for the taxes of 1894, and in the sum of $49 065/1000 for the taxes of 1895, and in the sum of 49 065/1000 for the taxes of 1896.

And for the reason aforesaid it likewise became liable to pay and is indebted to the town of Cruger in the sum of $56 796/1000
6 for the taxes of 1893, and in the sum of $56 780/1000 for the taxes of 1894, and in the sum of $56 784/1000 for the taxes of 1895, and in the sum of 56 784/1000 for the taxes of 1896.

And for the reasons aforesaid it likewise became liable to pay and is indebted to the town of Lexington in the sum of $141 12/100 for the taxes of 1893, and in the sum of $117 60/100 for the taxes of 1894, and in the sum of $132 638/1000 for the taxes of 1895, and in the sum of $132 638/1000 for the taxes of 1896.

And for the reasons aforesaid it likewise became liable to pay and is indebted to the town of Durant in the sum of $23 40/100 for the taxes of 1893, and in the sum of $23 43/100 for the taxes of 1894, and in the sum of $23 423/1000 for the taxes of 1895, and in the sum of $23 424/1000 for the taxes of 1896.

And for the reasons aforesaid it likewise became liable and is indebted to the town of Greenwood in the sum of $50 08/100 for the taxes of 1893, and in the sum of $50 995/1000 for the taxes of 1894, and in the sum of $61 05/100 for the taxes of 1895, and in the sum of $109 854/1000 for the taxes of 1896.

That the total amount due the city of Jackson for said years is..... $383 85/100
Total due the town of Flora..... 128 31
Total due Yazoo City..... 996 54
Total due Thornton..... 92 244/100
Total due Tchula..... 197 29
Total due Cruger..... 227 16
Total due Lexington..... 523 996/100
Total due Durant..... 93 678/100
Total due Greenwood..... 271 959/100

Total amount of all the taxes for all said cities and towns for the said years of 1893, 1894, 1895, and 1896 is the sum of two thousand nine hundred and fifteen 03/100 dollars.

7 Wherefore plaintiff says that by reason of the neglect and refusal of defendant to pay said taxes, which were properly levied ans assessed against it by said several cities and towns, and by virtue of the authority vested in plaintiff as revenue agent under the laws of the State of Mississippi, an action has accrued to plaintiff against defendant to sue for and collect said sum of $2,915 03/100, together with interest, damages, and costs.

Wherefore plaintiff brings this suit against the said Yazoo & Mississippi Valley Railroad Company and prays judgment for said sum of $2,915.03, together with damages, interest, and cost of suit.

WILLIAMSON & POTTER,
Att'ys for Revenue Agent.

We hereby waive process of summons and enter appearance of defendant in this suit this 7th day of July, 1897.

MAYES & HARRIS,
Att'ys for Y. & M. V. R. R. Co.

Endorsed: Filed and summons waived July 7, 1897. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Demurrer.

STATE OF MISSISSIPPI,
County of Hinds, in the First District.

In the Circuit Court, at the July Term, 1897.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY. } 3108.

Comes the defendant herein and demurs to the declaration herein filed against it and says that the same is not sufficient in law; wherefore it prays judgment, &c.

MAYES & HARRIS,
Att'ys for Defendant.

8 Endorsed: Filed July the 12, 1897. F. B. Neal, clerk, by W. J. Brown, Jr., D. C.

Demurrer Overruled.

July Term, 1897, August 3rd, 1897.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY. } 3108.

Came on to be heard the above-styled cause on the demurrer of the defendant to the declaration of the plaintiff, and the same having been argued and submitted on a former day of this term, and having been duly considered, it is now ordered and adjudged by the court that said demurrer be sustained on the ground that the exemption claimed by defendant in its charter of incorporation is perpetual and unconditional as to municipal taxes, and that the said cause be, and the same is hereby, dismissed; to which action of the court in sustaining said demurrer and dismissing his said suit the plaintiff excepted, and his exception was allowed; whereupon plaintiff, in open court, prayed an appeal to the next term of the supreme court of Mississippi; which appeal was by the court allowed.

STATE OF MISSISSIPPI,
Hinds County.

I, F. B. Neal, clerk of the circuit court in and for said county and State, hereby certify the foregoing four pages contain a full, true, and correct transcript of the record of the cause stated in the caption as the same remains on file and of record in my office.

Given under my hand and the seal of said court this 18th day of August, 1897.

F. B. NEAL, *Clerk*,
By W. J. BROWN, JR., *D. C.*

Appellee hereby waives service of citation and enter- appearance to October term, 1897, of the supreme court.

Sept. 14th, 1897.

MAYES & HARRIS,
Att'ys for Appellee.

9 WIRT ADAMS, State Revenue Agent,
v.
THE Y. & M. V. R. R. Co. } Assignment of Error.

Comes the appellant, The State Revenue Agent, and for error assigns the following:

1. The court below erred in holding that the exemption in appellee's charter is perpetual and unconditional.

2. The court erred in sustaining the demurrer to appellant's declaration.

3. The court erred in dismissing appellant's suit.

W. A. HENRY,
WILLIAMSON & POTTER,
Att'ys for Appellant.

Endorsed: Filed September 14th, 1897. E. W. Brown, clerk.

And on the 7th day of December, 1897, the following order was made in said cause:

WIRT ADAMS, State Rev. Agt.,
v.
YAZOO AND MISSISSIPPI VALLEY RAILROAD Co. } 8808.

Submitted on briefs by Messrs. Williamson & Potter and W. A. Henry, for the appellant, with leave to the appellee to file briefs during the week.

And on the 20th day of December, 1897, a day of the December special term, 1897, the following final judgment was rendered:

WIRT ADAMS, State Revenue Agent,
v.
YAZOO AND MISSISSIPPI VALLEY RAILROAD Co. } 8808.

This cause having been submitted on a former day of this term on the record herein from the circuit court of Hinds county, 1st district, and this court, having sufficiently examined and considered the same and being of opinion that there is error therein, doth order and adjudge that the judgment of said circuit court rendered in this cause at the July term thereof, A. D. 1897, on the 3rd day of August, 1897, be, and the same is hereby, reversed, demurrer overruled, and cause remanded, and that the appellee do pay the costs of this appeal, to be taxed, &c.

Opinion.

WIRT ADAMS, State Rev. Agt., v. Y. & M. V. R. R. Co. } 8808.

WHITFIELD, *J.:*

It was held in Yazoo & Miss. Valley Railroad Company *v.* Thomas *et al.*, 65 Miss., 562, affirmed 132 U. S., 174, that the exemption offered in § 8 of act of Feb. 17, 1882—(Laws 1882, p. 838)—was to commence from the completion of a line of said railroad to the Mississippi river. The question there involved related to State and county taxes. The contention here relates to municipal taxes alone. The United States Supreme Court there declare the inflexible rule, that "exemptions from taxation are regarded as in derogation of the sovereign authority and of common right, and, therefore, not to be extended beyond the exact, and express requirements of the language used, construed *strictissimi juris.*" It further declared the fundamental purpose of the offer of exemption to be, to secure the completion of the railroad to the Mississippi river. This was the clear consideration of the exemption. And the opening up of so valuable a line of communication to a great competing river, constituted a consideration the value of which, to the people of that part of Mississippi, can readily be appreciated. And to the argument made then, as now, that the consideration for the exemption, was, as recited in the preamble of the act, "the great public importance" of the work, and "the physical difficulties of constructing and maintaining such railroads in the delta of this State, that court well replied, that all these recitals were "just as referable to the remarkably extensive powers granted" to this company, "as to the assignment of reasons for exemption from taxation." Statutes must receive a reasonable construction, reference being had to their controlling purpose, to all their provisions, force and effect being given not narrowly to isolated and disjointed clauses, but to their plain spirit, broadly taking all their provisions together, in one rational view. Neither grammatical construction, nor the letter of the statute, nor its rhetorical framework, should be permitted to defeat its clear and definite purpose to be gathered from the whole act, comparing part with part. And no construction is even to be adopted, which charges the legislature with absurdity, when any other reasonable view can be taken.

What reasonable explanation can be suggested why this railroad should have perpetual and absolute exemption from municipal taxation as to all its property of every kind whatever, and only limited and conditional exemption from State and county taxation as to its railroad property proper? There is no construction that can uphold appellee's view, save the most technically literal one, in the very face of the paramount purpose of the act to secure a line of railroad to the Mississippi river. We are asked to take the last clause of the entire section, separated only by a semicolon, and look to that only, as if it were the whole section, shutting out the body

of the section of which it is an integral part. Nay, more; we are told that this construction is imperative because of some supposed magical effect in the conjunction "but," with which the said last clause is introduced, when here it may well mean the same as "yet" "still" "moreover." We are not disposed to so wrench the statute from its purpose, and pivot an absolute exemption from muni-pal taxation, for all time to come, granted conditionally for a consideration never performed, upon some supposed exclusive meaning of this very common connective. The purpose of the act manifestly was to grant the limited exemption mentioned, from all taxation, state, county, and municipal, on the property necessary and incidental to its proper use as a railroad, from the completion of the railroad to the Mississippi river; and no exemption otherwise. The language is "shall be exempt from taxation;" all taxation, not "taxation" except municipal taxation. The part of the act dealing with the grant of exemption, is that just quoted. The part of the act in which the last clause of section 8 occurs is devoted to a wholly different purpose, the object of this last part being as the U. S. Sup. Ct. observes on p. 189, "to create a scheme of taxation peculiar to the road." That scheme was to provide that all State and county taxes should be "collected by the treasurer of the State, and paid into the State treasury, to be dealt with as the legislature might direct." And then to guard against the possible implication from the failure to previously specifically mention municipal taxation, and from the failure to mention any method as to its collection, the last clause is added to show that exemption as to municipal taxation, conditional and limited as the other, was also to obtain. Any antithetical use "but" has here, serves this cautionary purpose only. Look at some other provisions of the act. It is provided that "when the period of exemption herein provided shall have expired, the property of said railroad company shall be taxed at the same rate as other property in this State." Not State and county taxes—but all taxes shall be paid. Another gross absurdity would result from the literal construction contended for by the appellee. It is provided that the exemption shall embrace by specific enumeration, the granting clause—the company's "stocks, its railroads, and appurtenances, and all its property necessary or incidental to the full exercise of all the powers herein granted, not to include compresses and oil mills." And yet, beyond all question, if the contention of appellee is correct, and the last clause of the section is to be taken as wholly independent of the rest of the section the exemption from municipal taxation would be absolute and perpetual not only as to property used for railroad purposes proper, but as to all its property of every kind, including compresses and oil mills, which were expressly left subject to State and county taxation at all times.

"A statute must receive such construction as will, if possible, make all its parts harmonize with each other, and render them consistent with its scope and object." Ellison *v.* R. R., 7 George, 572.

"The entire statute must be so read that the whole may have a

harmonious and consistent operation." Vinden *v.* Bowers, 55 Miss., 18.

"In the construction of a statute the object is to get at its spirit and meaning, its design and scope; and that construction will be justified which evidently embraces the meaning and carries out the object of the law, although it be against the letter and the grammatical construction of the act." Dixon *v.* Doe, 1 S. & M., 70; Pointer *v.* Trotter, 10 S. & M., 537; Board *v.* R. R. Co., 72 Miss., at p. 239.

"In determining the proper construction of a statute, the entire legislation on the same subject-matter, its policy and reason, as well as the text of the particular act, must be looked to." Clements *v.* Anderson, 46 Miss., 598.

Apply these elementary tests, remembering that statutes relating to exemptions, "in derogation of sovereign authority and common right, are not be extended beyond the exact and expressed requirements of the language used, construed *strictissimi juris*," and it seems to us clear that this claim to absolute and unlimited exemption from municipal taxation on all the property of appellee cannot be maintained. To maintain it would be to hold that no matter how vast the holdings of the appellee might become in cities and towns, in all the future, and no matter how entirely disconnected such holdings might be from any use necessary or incidental to the operation of the railroad, as a railroad—still all such property would forever be exempt from municipal taxation, though the road should never be built to the Mississippi river. It is quite immaterial that here only railroad property proper is involved, for the same clause which would uphold exemption as to that, would warrant exemption as to all—a purpose most indisputably never dreamed of by the legislature.

Judgment reversed, demurrer overruled, and cause remanded.

12 Pleas and proceedings had and done at a regular term of the circuit court in and for the first district of Hinds county, Mississippi, begun and held at the court-room, in the city of Jackson, on the third Monday, being the 20th day, of June, 1898, before the Hon. Robert Powell, judge of the seventh judicial district of the State of Mississippi and presiding judge of said court.

Mandate of the Supreme Court.

The State of Mississippi to the honorable the circuit court of Hinds county, 1st district, Greeting:

Whereas on the 20th day of December, 1897, the same being a day of the special term of our supreme court, began and held in the court-room, in the capitol, in the city of Jackson, in said State, on the 1st Monday of December, in the year of our Lord 1897, the following final judgment was rendered by our supreme court, to wit:

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO AND MISSISSIPPI VALLEY RAILROAD Co. } No. 8808.

This cause having been submitted on a former day of this term on the record herein from the circuit court of Hinds county, 1st district, and this court, having sufficiently examined and considered the same, being of opinion that there is error therein, doth order and adjudge that the judgment of said circuit court rendered in this cause at the July term thereof, A. D. 1897, on the 3rd day of August, 1897, be, and the same is hereby, reversed, demurrer overruled, and cause remanded, and that the appellee do pay the costs of this appeal, to be taxed, &c.

You are therefore commanded that such execution and further proceedings be had in said cause as according to right and justice, the judgment of our supreme court, and the law of the land ought to be had.

13 Witness the Hon. Thomas H. Woods, chief justice of our supreme court, also the signature of the clerk, and the seal of said court, hereunto affixed, at office, at Jackson, this the 15th day January, A. D. 1898.

[SEAL.]

E. W. BROWN, *Clerk*,
By C. C. CAMPBELL, *D. C.*

Filed January 17th, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

Leave to Amend Declaration.

January Term, 1898, January 24th, 1898.

WIRT ADAMS, State Rev. Ag't, Use, etc.,
vs.
YAZOO & MISS. VALLEY R. R. COMPANY. } 3108.

By agreement of counsel for the respective parties in the above cause, made in open court—

It is ordered that the State revenue agent, plaintiff, do have and he is hereby granted leave to amend his declaration filed July 7th, 1897, so as to include in said suit the taxes for the towns along defendant's line for the years 1886, 1887, 1888, 1889, 1890, 1891, 1892, and 1897, as well as the taxes for the years already sued for, said amendment or amended declaration to be filed within thirty days after the present term of the court, and that defendant have leave, within twenty days thereafter, to plead or demur; and by agreement it is further ordered that said cause be continued until the next term of this court.

14 *Amended Declaration.*

In the Circuit Court in and for the First District of Hinds County Mississippi.

WIRT ADAMS, State Revenue Agent, &c.,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY.

Amended declaration.

Comes the plaintiff, Wirt Adams, State revenue agent, duly elected and qualified as such officer and holding the same under the laws of the State of Mississippi, who here sues for the use and benefit of the following incorporated cities, towns, and villages in said State, to wit, Jackson, Flora, Yazoo City, Thornton, Tchula, Cruger, Lexington, Durant, Greenwood, and Sidon, and complains of the Yazoo & Mississippi Valley Railroad Company, a corporation chartered under the laws of the State of Mississippi and owning and operating a railroad through said district, county, and State, and running through all of the above-named cities, towns, and villages, and against D. P. Porter, Jr., tax collector for the city of Jackson; A. G. Moore, assessor for the city of Jackson; F. C. Dunn, tax collector and assessor for the town of Flora; E. J. Poursine, tax collector and assessor for the town of Yazoo City; W. H. Madden, tax collector and assessor for the town of Tchula; J. H. McGee, tax collector and assessor for the town of Cruger; R. E. Welburn, tax collector and assessor for the town of Lexington; W. H. Mullen, tax collector and assessor for the town of Durant; J. L. Gillespie, tax collector and assessor for the town of Greenwood; J. T. Kenshoffer, tax collector and assessor for the town of Sidon, and for cause of action shows as follows: That all of said cities and towns were prior to the year 1886 and continuously from then up to the present time and are now duly incorporated and chartered under the laws of the State of Mississippi, and under their said charters have power to levy, assess, and collect taxes upon property subject to taxation within their corporate limits for municipal purposes.

15 That in and for the years from 1886 to 1897, inclusive, all of said towns and cities duly and properly made levies for taxes for municipal purposes on all property subject to taxation by them as follows, to wit:

The city of Jackson made a levy of 10 mills for the year 1886, a levy of 10 mills for the year 1887, a levy of 14 mills for the year 1888, a levy of 15 & ½ — for the year 1889, a levy of 13 & ½ mills for the year 1890, a levy of 11 mills for the year 1891, a levy of 9 mills for the year 1892, a levy of 13 mills for the year 1893, a levy of 14 & ½ mills for the year 1894, a levy of 13 mills for the year 1896, and a levy of 13 mills for the year 1897.

The town of Flora made a levy of 2 & ½ mills for the year 1889, a levy of 5 mills for the year 1890, a levy of 5 mills for the year 1891, a levy of 3 & ½ mills for the year 1892, a levy of 3 & ½ mills

for the year 1893, a levy of 3 & ½ mills for 1894, a levy of 3 & ½ mills for 1895, and a levy of 3 & ½ mills for 1896.

The city of Yazoo City made a levy of 11 mills for the year 1886, a levy of 11 mills for the year 1887, a levy of 14 mills for the year 1888, a levy of 12 mills for the year 1889, a levy of 13 & ¾ mills for the year 1890, a levy of 13 & ½ mills for the year 1891, a levy of 12 mills for the year 1892, a levy of 11 & ¼ mills for 1893, a levy of 10 & ½ mills for 1894, a levy of 10 mills for 1895, a levy of 10 mills for 1896, and a levy of 10 mills for 1897.

The town of Cruger made a levy of 5 mills for 1895, 5 mills for 1896, and 5 mills for 1897.

The town of Lexington made a levy of 10 mills for 1886, 12 mills for 1887, 10 mills for 1888, 13 mills for 1890, 12 mills for 1891, 10 mills for 1892, a levy of 11 mills for the year 1893, and a levy of 4 & ½ mills for 1894, and for 1895 a levy of 4 & ½ mills, and for 1896 a levy of 4 & ½ mills, *and for 1896 a levy of 4 & ½ mills*, and for 1897 a levy of 22 & ½ mills.

16 The town of Durant made a levy of 5 mills for each and every of the years 1886, 1887, 1888, 1889, 1890, 1891, and 1892, and a levy of 5 mills for each and every of the years 1893, 1894, 1895, & 1896, and a levy of 8 & ½ mills for the year 1897.

The town of Greenwood made a levy of 3 mills for the year 1886, a levy of 3 mills for the year 1887, a levy of 4 & ½ mills for 1888, a levy of 3 & ½ mills for 1889, a levy of 3 mills for 1890, a levy of 2 & ½ mills for 1891, a levy of 2 mills for 1892, a levy of 5 mills for 1893, a levy of 5 mills for 1894, a levy of 9 mills for 1895, a levy of 9 mills for 1896, and a levy of 9 mills for the year 1897.

The town of Sidon made a levy of 2 & ½ mills for the years 1893, 1894, 1895, 1896, & 1897.

Said several levies for taxes made for said several years by said cities, towns, and villages being on each dollar of the value thereof of all property subject to municipal taxation.

That during all of said years said defendant owned and possessed valuable property in all of said cities, towns, and villages, consisting of its railroad bed, tracks, side tracks, switches, and depot buildings, of the value within each of said cities, towns, and villages as hereinafter given, and which was subject to municipal taxes as levied by said cities, towns, and villages.

That said property of defendant has been duly and properly assessed for said city, town, and village taxes according to its value in and for all of said cities, towns, and villages for all of said years—that is to say, it was assessed for the taxes of each and every of the years 1886 to 1897, inclusive, for the city of Jackson at a valuation of $5,175; that for the town of Flora it was assessed at a valuation of $9,452.00 for the years 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, and for the years 1895 and 1896 each at a valuation of $9,450.00, and for the year 1897 at a valuation of $9,469.00.

That for Yazoo City it was assessed at a valuation of $23,886.00 for each of the years 1886, 1887, 1888, 1889, 1890, 1891, 1892,

17 and 1893, and for the year 1894 at a valuation of $24,073.00, and for 1895 and 1896 each at a valuation of $23,752.00, and or 1897 at a valuation of $23,693.00.

That for the town of Tchula it was assessed at a valuation of $9,916.00 for each of the years 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, & 1894, and for each of the years 1895, 1896, and 1897 it was assessed at a valuation of $9,813.00.

That for the town of Cruger it was assessed at a valuation of $9,460.00 for each of the years 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, & 1894, and for each of the years 1895, 1896, and 1897 it was assessed at a valuation of $9,464.00.

That for the town of Lexington it was assessed at a valuation of $11,760.00 for each of the years 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, and 1894, and for each of the years 1895 and 1896 at a valuation of $12,058.00, and for the year 1897 at a valuation of $15,658.00.

That for the town of Durant it was assessed at a valuation of $3,900.00 for taxes for each of the years 1886, 1887, 1888, 1889, 1890, 1891, 1892, and 1893, and for 1894 at a valuation of $3,905.00, for 1895, 1896, and 1897 each at a valuation of $3,904.00

That for the town of Greenwood it was assessed at a valuation of $10,016.00 for the years 1886, 1887, 1888, 1889, 1890, 1891, 1892, and 1893, and for 1894 at $10,199.00, and for 1895 and 1896 at a valuation of $12,206.00, and for the year 1897 it was assessed at a valuation of $15,658.00.

That for the town of Sidon it was assessed for taxes at a valuation of $5,916.00 for each and every of said years.

All of which taxes levied and assessed as aforesaid the defendant has wholly neglected and refused to pay.

That by reason of said assessments and levies and defendant's neglect and refusal to pay its said taxes, as aforesaid, it becomes indebted and liable to pay the city of Jackson:

18 In the sum of $51.75 for the taxes of 1886, and
In the sum of $51.75 for the taxes of 1887, and
In the sum of $72.45 for the taxes of 1888, and
In the sum of $80.21 for the taxes of 1889, and
In the sum of $69.86 for the taxes of 1890, and
In the sum of $56.92 for the taxes of 1891, and
In the sum of $46.57 for the taxes of 1892, and
In the sum of $67.27 for the taxes of 1893, and
In the sum of $75.03 for the taxes of 1894, and
In the sum of $67.27 for the taxes of 1895, and
In the sum of $67.27 for the taxes of 1896, and
In the sum of $67.27 for the taxes of 1897.

That it likewise became and is indebted to the town of Flora
In the sum of $23.63 for the taxes of 1889, and
In the sum of $47.26 for the taxes of 1890, and
In the sum of $47.26 for the taxes of 1891, and
In the sum of $34.70 for the taxes of 1892, and
In the sum of $32.08 for the taxes of 1893, and
In the sum of $32.08 for the taxes of 1894, and
In the sum of $32.07 for the taxes of 1895, and
In the sum of $32.07 for the taxes of 1896.

That it likewise became and is indebted to the city of Yazoo City
In the sum of $262.74 for the taxes of 1886, and

In the sum of $262.74 for the taxes of 1887, and
In the sum of $334.40 for the taxes of 1888, and
In the sum of $286.63 for the taxes of 1889, and
In the sum of $328.30 for the taxes of 1890, and
In the sum of $322.42 for the taxes of 1891, and
In the sum of $286.63 for the taxes of 1892, and
In the sum of $268.71 for the taxes of 1893, and
In the sum of $252.76 for the taxes of 1894, and
19 In the sum of $237.52 for the taxes of 1895, and
In the sum of $237.52 for the taxes of 1896, and
In the sum of $236.93 for the taxes of 1897.
And it likewise became and is indebted to the town of Tchula
In the sum of $59.49 for the taxes of 1889, and
In the sum of $49.58 for the taxes of 1890, and
In the sum of $49.56 for the taxes of 1891, and
In the sum of $49.58 for the taxes of 1892, and
In the sum of $49.58 for the taxes of 1893, and
In the sum of $49.58 for the taxes of 1894, and
In the sum of $49.06 for the taxes of 1895, and
In the sum of $49.06 for the taxes of 1896, and
In the sum of $49.06 for the taxes of 1897.
And it likewise became and is indebted to the town of Cruger
In the sum of $47.32 for the taxes of 1895, and
In the sum of $47.32 for the taxes of 1896, and
In the sum of $47.32 for the taxes of 1897.
And it likewise became and is indebted to the town of Lexington
In the sum of $117.60 for the taxes of 1886, and
In the sum of $141.12 for the taxes of 1887, and
In the sum of $117.60 for the taxes of 1888, and
In the sum of $152.88 for the taxes of 1889, and
In the sum of $052.88 for the taxes of 1890, and
In the sum of $141.12 for the taxes of 1891, and
In the sum of $117.60 for the taxes of 1892, and
In the sum of $129.36 for the taxes of 1893, and
In the sum of $52.92 for the taxes of 1894, and
In the sum of $54.26 for the taxes of 1895, and
In the sum of $54.26 for the taxes of 1896, and
In the sum of $352.305 for the taxes of 1897.
20 And it likewise became and is indebted to the town of Durant
In the sum of $19.50 for the taxes of 1886, and
In the sum of $19.50 for the taxes of 1887, and
In the sum of $19.50 for the taxes of 1888, and
In the sum of $19.50 for the taxes of 1889, and
In the sum of $19.50 for the taxes of 1890, and
In the sum of $19.50 for the taxes of 1891, and
In the sum of $19.50 for the taxes of 1892, and
In the sum of $19.50 for the taxes of 1893, and
In the sum of $19.52 for the taxes of 1894, and
In the sum of $19.52 for the taxes of 1895, and
In the sum of $19.52 for the taxes of 1896, and
In the sum of $33.18 for the taxes of 1897.

And it likewise became and is indebted to the town of Greenwood
In the sum of $30.04 for the taxes of 1887, and
In the sum of $45.07 for the taxes of 1888, and
In the sum of $35.05 for the taxes of 1889, and
In the sum of $30.04 for the taxes of 1890, and
In the sum of $25.04 for the taxes of 1891, and
In the sum of $20.03 for the taxes of 1892, and
In the sum of $50.08 for the taxes of 1893, and
In the sum of $50.09 for the taxes of 1894, and
In the sum of $109.54 for the taxes of 1895, and
In the sum of $109.85 for the taxes of 1896, and
In the sum of $140.92 for the taxes of 1897.
And it likewise became and is indebted to the town of Sidon
In the sum of $14.79 for the taxes of 1893, and
In the sum of $14.79 for the taxes of 1894, and
In the sum of $14.79 for the taxes of 1895, and
In the sum of $14.79 for the taxes of 1896, and
$14.79 for the taxes of 1897.

21 That the total amount due and owing to the city of Jackson for all of said years is..... $773.62
That the total amount due Flora is..... 281.15
That the total amount due Yazoo City is..... 3,336.62
That the total amount due Tchula is..... 454.55
That the total amount due Cruger is..... 141.96
That the total amount due Lexington is..... 1,583.90
That the total amount due Durant is..... 239.74
That the total amount due Greenwood is..... 677.69
That the total amount due Sidon is..... 73.95

That the total amount of all the taxes for all of said cities, towns, and villages for all of said years is the sum of nine thousand dollars.

That said assessors and tax collectors negligently failed and refused to assess and collect the taxes due their respective cities and towns.

Wherefore plaintiff says that by reason of the neglect and refusal of the Yazoo & Mississippi Valley Railroad Company to pay said taxes which were properly levied and assessed against it by and for said several cities, towns, and villages, and by virtue of the authority vested in plaintiff as revenue agent, under the laws of the State of Mississippi, an action has accrued to plaintiff against it to sue for and collect said sum of nine thousand dollars, together with interest, damages, and cost.

And plaintiff demands from said assessors and tax collectors the amount of his commission as revenue agent, to wit, twenty per cent. of the amount due each of said cities and towns from the assessor and tax collector qualified and acting therefor, as aforesaid.

Wherefore plaintiff brings this suit against the Yazoo & Mississippi Valley Railroad Company, prays judgment for said sum of nine thousand dollars, interest and cost, and against said other de-

fendants he prays judgment for the amount of his said com-
22 pensation on the amount found due to the respective towns wherein they are qualified and acting as aforesaid.

W. A. HENRY AND
WILLIAMSON & POTTER,
Att'ys for Plaintiff.

Filed and summons issued to Hinds county February 9th, 1898.
F. A. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

Summons to Hinds County.

The State of Mississippi to the sheriff of Hinds county, Greeting:

We command you that you summon The Yazoo & Mississippi Valley Railroad Company, D. P. Porter, Jr., tax collector of the city of Jackson; A. G. Moore, assessor for the city of Jackson; F. C. Dunn, tax collector and assessor for the town of Flora; E. J. Poursine, tax collector and assessor for the city of Yazoo City; E. C. Thornton, tax collector and assessor for the town of Thornton; W. H. Madden, tax collector and assessor for the town of Tchula; J. H. McGee, tax collector and assessor for the town of Cruger; R. E. Wilburn, tax collector and assessor for the town of Lexington; W. H. Mullen, tax collector and assessor for the town of Durant; J. L. Gillespie, tax collector and assessor for the town of Greenwood; J. T. Kenehoffer, tax collector and assessor for the town of Sidon, if to be found in your county, so that they be before the circuit court to be holden in and for the first district of said county, at the courthouse thereof, in the city of Jackson, on the second Monday of July, 1898, to answer the amended declaration of Wirt Adams, State revenue agent, plaintiff, against said defendants, now on file in the clerk's office of said court, and have then and there this summons.

23 Witness the Honorable Robert Powell, judge of the seventh judicial district of said State, the second Monday of January, 1898, and seal of said court.

Issued the 9th day of February, 1898.

[SEAL.] By W. J. BROWN, *D.*,
F. B. NEAL, *Clerk.*

The declaration on file is founded on a suit for taxes for the years 1886 to 1897, inclusive, for municipal taxes due the towns along the line of said railroad company and against the defendants other than said railroad company for the amount of said revenue agent's compensation. The amount actually demanded in this suit is the sum stated in said declaration and lawful interest and costs.

Judgment will be demanded at return term.

WILLIAMSON & POTTER, *P. Q.*

Amended declaration filed when summons issued.
F. B. NEAL, *Clerk*,
By W. J. BROWN, *D. C.*

To be served on all the defendants in your county except the Y. & M. V. R. R. Co., who are already in court.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk*.

Executed personally upon D. P. Porter, city collector, and A. G. Moore, city tax assessor, in person and by copy, June 15, 1898.

W. T. RATLIFF, *Sheriff*,
By E. Y. McKAY, *D. S.*

Pleas.

STATE OF MISSISSIPPI,
County of Hinds, First District.

In the Circuit Court, at the June Term.

WIRT ADAMS, State Revenue Agent,
v.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY. } 3108.

24 1st plea. Comes the defendant herein, by its attorneys, and for its plea to the declaration herein filed against it says that it does not owe the said several sums of money in said declaration or any of them in manner and form as in said declarations is alleged; and of this the defendant puts itself upon the country. Wherefore, &c.

MAYES & HARRIS,
Attorneys for the Defendant.

2nd plea. Comes the defendant herein, by its attorneys, and for a further plea to the declaration and the amended declaration herein filed against it, in so far as the same demand taxes for the years 1892 to 1897, inclusive, says that the said defendant is a corporation of the State of Mississippi, incorporated by and organized under an act of the legislature of this State entitled "An act incorporating the Yazoo and Mississippi Valley Railroad Company and declaring its powers," approved on the 17th day of February, A. D. 1882; that the property herein described as the property on and against which the said pretended assessment and levies of taxes sued for were made is property acquired by said defendant under its charter, and is property necessary and incident to the full exercise of the powers in said charter granted, and does not include compresses or oil mills; that the railroad of said defendant was completed to the Mississippi river on the 25th day of October, 1892, in the manner following: that on the said 25th day of October, 1892, the Louisville, New Orleans & Texas Railway Company, organized under certain laws of the State of Mississippi, and operating and owning a line of railroad from the city of Memphis, in the State of Tennessee, and running through the State of Mississippi north and south, near the Mississippi river, paralleling the same in a general way, and this defendant, acting under powers con-

tained in their respective charters, were consolidated in such manner that the said Louisville, New Orleans & Texas Railway Company was merged into the said defendant by consolidation, and the franchises and rights and property and railroads of said Louisville,
25 New Orleans and Texas Railway Company became the franchises and rights and property and railroads of this defendant, and were managed and controlled by the same; and said Louisville, New Orleans & Texas Railway Company at the time of said consolidation and merger had constructed and was then the owner of certain branches which reached the Mississippi river, to wit, one branch which ran westerly from the main line at Harriston, in Jefferson county, and reached the said river at Natchez, in Adams county; another branch which ran westerly from the main line at Leland, in Washington county, and reached the Mississippi river both at Greenville, in Washington county, and at Huntington, in Bolivar county, opposite Arkansas City, of the State of Arkansas; and another branch which ran westerly and southerly from Lula, in Coahoma county, on the main line, and reached the Mississippi river both at Rosedale, in Bolivar county, and Friar's Point, in Coahoma county, and that the main line itself of said Louisville, New Orleans & Texas railway reached the Mississippi river at Vicksburg, in Warren county; and the said Harriston branch, first mentioned above, crossed said main line at Harriston and ran in a northeasterly direction to Jackson, in Hinds county, where it made connection with the railroad theretofore built and put into active operation by this defendant under its own original charter cited above, running from Jackson aforesaid northerly to Parsons, in Grenada county, and penetrating the counties of Madison, Yazoo, Carroll, Holmes, and Leflore, whereby the said railroad from Jackson to Parsons, being the railroad about which the taxes sued for herein are demanded, was connected with the entire system that was of the said Louisville, New Orleans and Texas Railway Company, and through that system with the Mississippi river.

Wherefore, etc.

MAYES & HARRIS,
Att'ys for Def't.

3rd plea. And the said defendant, for a further plea as to the taxes demanded in and by said declaration and said amended declaration, on account of and for the use of the city of Jackson, says
26 that the said defendant is a corporation of the State of Mississippi, incorporated by and organized under an act of the legislature of this State entitled "An act incorporating the Yazoo & Mississippi Valley Railroad Company, and declaring its powers," approved the 17th day of February, 1882; that after said company was organized, but before its line was finally located and constructed, the authorities and people of the said city were desirous of obtaining and influencing said company to adopt said city for its south eastern terminus—that is to say, its terminus on the line of the then Chicago, St. Louis and New Orleans railroad; and in order to induce the said company so to do, the board of mayor and aldermen

of the said city duly and regularly adopted and passed an ordinance in the words and figures following:

"SECTION 1. Be it enacted by the board of mayor and aldermen of the city of Jackson, That the property of the C. St. L. & N. O. R. R. Company, and of the Yazoo and Mississippi Valley R. R. Company, used in maintaining and operating said roads within the city limits, is hereby released from all city taxation for twenty years from date: Provided, that the Yazoo and Mississippi Valley railroad select Jackson for its southeastern terminus; and provided further that the work on said road be commenced within one year and completed within three years to Yazoo City.

"SECTION 2. Be it further rodained: That this ordinance be *if* force and effect from and after its adoption.

"Adopted May 5, 1882."

Said ordinance was accepted by this defendant, and Jackson was selected for the southeastern terminus of said railroad, and work on said road was completed to Yazoo City within three years from the said adoption, and the property against and *the* account of which the taxes herein demanded were assessed and levied is the property of said road in maintaining and operating the same within the limits of said city.

Wherefore the said defendant, etc.

MAYES & HARRIS
Att'ys for Def't.

Filed February 26th, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

27 *Demurrer to Defendant's Second Plea to Declaration.*

STATE OF MISSISSIPPI,
County of Hinds.

In the Circuit Court, 1st Dist., said County.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY. } No. 3108.

Demurrer to defendant's 2nd plea.

Comes the plaintiff in the above-styled cause and demurs to the second plea filed by defendant to the declaration herein, and for cause of demurrer he assigns the following reasons:

1. Said plea does not show that defendant's railroad has ever been completed to the Mississippi river, as provided in its charter of incorporation.
2. Said plea is insufficient in law.
3. Said plea sets up no valid defense to plaintiff's action.

Wherefore plaintiff prays judgment, &c.

WILLIAMSON & POTTER,
Attorneys for Plaintiff.

Filed April 13th, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

28 *Demurrer to Defendant's Third Plea to Declaration.*

STATE OF MISSISSIPPI,
1st Dist., Hinds County.

In the Circuit Court in and for said District and County.

WIRT ADAMS, State Revenue Agent,
v.
YAZOO & MISSISSIPPI VALLEY R. R. Co. } No. 3108.

Comes the plaintiff and, as to the third plea by the defendant pleaded to his declaration, says—

That the matters therein contained are not sufficient in law to bar him from having his aforesaid action or any part thereof.

Wherefore plaintiff demurs to said third plea, and for causes of demurrer assigns:

1. The board of mayor and aldermen were without authority of law to grant the exemption claimed by said plea.

2. Said ordinance is violative of the constitutional provision that taxation shall be equal and uniform.

3. Said ordinance is in violation of the provisions of the constitution that all property of corporations for pecuniary profit shall be subject to taxation the same as that of individuals.

4. Said ordinance is *nundum factum* and void.

Wherefore plaintiff prays the judgment of the court, &c.

WILLIAMSON & POTTER,
Att'ys for Plaintiff.

Filed April 13th, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

Agreed Statement of Facts.

In the Circuit Court, 1st District of Hinds County, State of Mississippi.

WIRT ADAMS, State Revenue Agent, &c.,
vs.
YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY.

To save costs, the following really undisputed matters involved in this suit are admitted by the following agreed statement of facts:

It is agreed between the respective parties to the above cause that the defendant, The Yazoo & Mississippi Valley Railroad Company, was chartered in the year 1882 under the laws of the State of Mississippi, and that before the year 1886 it had constructed its
29 railroad and operated the same from the city of Jackson to the town of Parsons, and that the same ran through all the

cities, towns, and villages mentioned and set out in the declaration and amended declaration, and that said railroad has never been completed to the Mississippi river otherwise than in the manner set out in defendant's second plea, to wit, by the consolidation with the Louisville, New Orleans and Texas Railroad Company, whereby defendant came into control of said L., N. O. & T. R'y and the road from Jackson to Natchez, formerly known and chartered as the Natchez, Jackson & Columbus Railroad Co., which was owned just prior to the consolidation by the L., N. O. & T. R'y Co., and by the consolidation went into defendant's possession.

That defendant owns road-beds, tracks, and switches, and depot buildings, and operates its railroad in and through the several towns mentioned in the declaration and amended declaration, and have so owned and held said property from 1885 up to the present time, and that the same has been assessed for taxes for all of said cities, towns, and villages for the years 1886 to 1897, inclusive; that the tax levies were made for all of said years by said *said* several cities, towns, and villages, as stated in the declaration and amended declaration.

It is further agreed that on the hearing of this cause maps may be introduced or obtained and used by the court showing the location of defendant's road as constructed and the location of the roads coming into its possession by said consolidation.

MAYES & HARRIS,
Att'ys for Def't.

WILLIAMSON & POTTER,
Att'ys for Plaintiff.

Filed April 13th, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

Defendant's Fourth Plea.

30 Defendant's fourth plea.

STATE OF MISSISSIPPI,
County of Hinds, First Dist.

WIRT ADAMS, State Revenue Agent,
vs.
YAZOO & MISS. VALLEY RAILROAD CO.

Comes the defendant herein, and for a fourth plea to the declaration herein filed against it says that prior to the assessment of the taxes in said declaration mentioned, to wit, on the — day of ——, 1882, this defendant executed to the Illinois Central Railroad Company, a corporation of the State of Illinois, a lease of all the railroad property in said declaration mentioned for and during a term of fifty years from the date thereof, and on said day did deliver said railroad property to said Illinois Central Railroad Company under and pursuant to said lease, and from that time forth continuously

until the bringing of this suit the said Illinois Central Railroad Company held and operated said railroad and property under said lease, and it was so holding and operating the same at the times respectively of each and all the assessments and levies in said declaration mentioned.

And defendant further avers that under and by said lease said Illinois Central Railroad Company agreed and promised and became obligated to pay of- and discharge all taxes legally assessed and levied and payable by the said Yazoo & Mississippi Valley Railroad Company or against and upon and because of said railroad and property during the continuance of said lease.

(II.)

And defendant further avers that under and by virtue of the said charter of this defendant granted by the State of Mississippi the sais railroads and property in said declaration were, at the time of the execution of said lease, and they have been continuously until the bringing of this suit, and were at the time of the
31 assessments and levies mentioned in said declaration exempted from any and all municipal taxation, and the power and the right of the legislature of said State to make said exemption had been judicially recognized and declared by the supreme court of said State since *since* the year 1888 in and by the case of Mississippi Mills *v.* Cook, reported in 56th volume of Mississippi Reports, and said exemption entered into and constituted a part of the lease aforesaid and a part of the obligation of the said Illinois Central Railroad Company thereunder, and also a part of the charter contract of the defendant as between it and said State whereunder the def-ndant did accept said charter and build, and construct, and equip, and operate, by itsself and its lessee, the said railroads and property.

And the said defendant further avers that the said exemption by said charter conferred has never been repealed by the legislature of said State, but, on the contrary, at the sessions of said legislature held in the yeers 1886, 1888, 1890, and 1896 respectively members of that body introduced bills therein whereby said exemption should be repealed, but said legislatures each and respectively refused to pass the same or any of them, and said charter exemption still stands unrepealed and not in ant way modified by said State legislature.

All of which defendants is ready to verify. Wherefore, &c.

MAYES & HARRIS,
Att'ys for Def't.

Filed July 1, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

Demurrer to Defendant's Fourth Plea.

STATE OF MISSISSIPPI,
County of Hinds.

In the Circuit Court, 1st Dist. of said County.

32 WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY. } No. 3108.

Demurrer to defendant's fourth plea.

Comes the plaintiff in the above-styled cause and demurs to the fourth plea of defendant this day filed to the declaration herein, and for cause of demurrer he assigns the following reasons:

1. Because the assessment by the proper authorities was a final adjudication of liability as to ownership.
2. Because the liability of *of* the defendant in this proceeding is not affected by any lease or other private arrangement that it may have had with any stranger.
3. Because the said exemption was conditional and said plea does not set up or show that the same was ever earned.
4. Because the questions involved in [illegible] suit do not involve the question of the power of the legislature to [illegible]rant exemption and does not involve the questions raised by the overruling of the said Cook case.
5. Because said plea is insufficient in law.
6. Because said plea sets up no defense to plaintiff's suit.

And for other reasons to be assigned at the hearing.

WILLIAMSON & POTTER,
Att'ys for Plaintiffs.

Filed July 1st, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk.*

Demurrer to 3rd Plea Sustained.

June Term, 1898, July 1st, 1898.

WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY R. R. Co. } 3108.

Came to be heard the demurrer of plaintiff to the third
33 plea of defendant filed February 26, 1898, and the court, having fully heard and considered the same, doth now order and adjudge that said demurrer be, and the same is hereby, sustained.

Demurrer to 4th Plea Sustained.

June Term, 1898, July 1st, 1898.

WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY R. R. C. } No. 3108.

Came to be heard the demurrer of plaintiff to the fourth plea of defendant to the declaration, and the court, having fully heard and considered the same, doth now order and adjudge that said demurrer be, and the same is hereby, sustained.

Dismissed as to Assessors and Collectors.

June Term, 1898, July 1st, 1898.

WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD Co. } 3108.

This cause coming on for trial, and it appearing that the assessors and tax collectors mentioned in the declaration were not guilty of any fault or wrong in the matter of the assessments or collections, the said cause is dismissed as to them.

Jury and Verdict.

June Term, 1898, July 1st, 1898.

WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD Co. } No. 3108.

Come the parties, by their attorneys, and, the issue being joined, also came a jury of good and lawful men, to wit, J. B. Ligon
34 and 11 others, who, being duly elected, empaneled, and sworn, and the issue submitted to them, upon their oaths do say: We, the jury, find for the plaintiff, for the use and benefit of the towns mentioned in the declaration, as follows, to wit:

For the city of Jackson the sum of	$773.62
For the town of Flora	281.15
For the town of Yazoo City the sum of	3,336.32
For the town of Tchula	434.55
For the town of Cruger	141.96
For the town of Lexington	1,583.90
For the town of Durant	239.74
For the town of Greenwood	667.69
For the town of Sidon	73.95

The aggregate finding for plaintiff being the sum of seven thousand five hundred and sixty-two dollars and eighty-eight cents. It

is therefore considered by the court and so ordered and adjudged that the plaintiff, Wirt Adams, State revenue agent, for the use and benefit of the towns mentioned in the declaration, do have and recover of and from the defendant, The Yazoo & Mississippi Valley Railroad Company, the sum of seven thousand five hundred and sixty-two dollars and eighty-eight cents ($7,562.88), as found by the jury, with interest thereon, at the rate of six per centum per annum, from the date of this judgment, together with all costs in this behalf expended, for all of which let execution issue.

Motion for New Trial.

June Term, 1898, July 8th, 1898.

WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD CO. } No. 3108.

The defendant herein moves the court to set aside the verdict of the jury herein rendered and grant a new trial for the following reasons:

35 1. The court erred in overruling the objection of defendant to the evidence offered by plaintiff and admitting such evidence.

2. The court erred in sustaining the objection of plaintiff to the evidence offered by defendant and excluding such evidence.

3. The court erred in granting the peremptory instruction for the plaintiff.

4. The court erred in refusing the peremptory instruction asked by defendant.

5. Said verdict is contrary to law.

6. Said verdict is contrary to the evidence.

7. Said verdict is contrary to the law and the evidence.

MAYES & HARRIS, *For Motion.*

WILLIAMSON & POTTER, *Contra.*

Filed and entered July 8th, 1898.

F. B. NEAL, *Clerk,*
By W. J. BROWN, *D'y Clerk.*

Overruled.

Motion for New Trial Overruled.

June Term, 1898, July 8th, 1898.

WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD CO. } No. 3108.

Came on to be heard the motion of defendants to set aside the verdict and judgment herein and to grant a new trial, and the court having duly considered the same, it is ordered and adjudged

that said motion be, and the same is hereby, overruled; to which action of the court the defendants then and there excepted, and their exception was allowed.

36 *Bill of Exceptions.*

WIRT ADAMS, State Revenue Agent,
vs.
THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY. } No. 3108.

Bill of exceptions.

Be it remembered that on the 1st day of July, 1898, the same being a day of the regular term of the circuit court in and for the 1st district of Hinds county, Mississippi, the above-styled cause was regularly called and came on for trial, and thereupon came a jury of good and lawful men, to wit, J. B. Ligon and eleven others, who, being duly elected, — empaneled and sworn and the pleadings in the case read and presented to them; whereupon the following evidence was introduced for and on behalf of the plaintiff, to wit:

Plaintiff introduced in evidence and read to the jury the agreed statement of facts filed in the case, which is in the words and figures following, to wit: (Clerk will here copy same.) (See Record, pp. 10 & 11.)

And upon the above evidence plaintiff rested.

Whereupon defendant offered and read in evidence the following, to wit:

(Clerk will here copy the charter of the incorporation.)

37

CHAPTER DXLI.

An act incorporating the Yazoo and Mississippi Valley Railroad Company and declaring its powers.

Work of great public importance.

Whereas, the construction of railroads to, in, through and along the Mississippi River basin, and the Yazoo and Sunflower River basins, penetrating these and other alluvial lands in this State, west of the Chicago, St. Louis and New Orleans railroad, and connecting them by railroads and branches with other railroads west, east, north and south, is deemed and hereby declared to be a work of great public importance and in strict accordance with the true policy and interest of this State, should be encouraged by legislative sanction and liberality; and,

Physical difficulties.

Whereas, the physical difficulties of constructing and maintaining railroads to, across, along or within either the Mississippi, Sunflower, Deer Creek or Yazoo bottoms or basins, or the other alluvial lands herein referred to, are such that no private company has so far been able to establish a railroad and branches developing said basins and alluvial lands, and connecting them with the railroad system of the country:

Induce investment of capital.

Now, therefore, in order to induce the investment*ment* of capital in the construction, maintenance and operation of such a railroad and branches, and thus develope the resources and wealth of this State:

SECTION 1. *Be it enacted by the legislature of the State of Mississippi*, That R. C. Shepherd, F. Barksdale, J. Z. George, Wm. R. Pillow, F. A. Montgomery, G. W. Faison, John Willis, R. P. Neely, W. H. H. Green, John W. Shields, W. H. Osborn, J. C. Clarke, W. K. Ackerman, L. V. F. Randolph, A. R. Van Nest, F. Sturges, Jno. Elliott, W. W. Gebhard, James Fentress, W. H. Bayard, R. N. Miller, W. P. Harris, R. H. Thompson, James Trotter, L. E. Simonds, H. Q. Bridges and H. S. Foote, together with those who may hereafter become stockholders, their successors and assigns, and the assigns of such assigns forever, be and they are hereby created a body corporate, under the name and style of the Yazoo and Mississippi Valley Railroad Company, and as such shall have perpetual succession; and said corporation, its successors and assigns, are hereby forever

Incorporators.

Style of company.

38 authorized and made capable in law to have, hold, purchase, receive and enjoy

real and personal estate in this and other State or States, whether acquired by way of security or in satisfaction of debt, or by donation, purchase, devise or otherwise, and to hold, use and enjoy all of such real estate in fee-simple or otherwise, and the same or any part thereof to sell, rent, lease, mortgage or otherwise dispose of or encumber; to sue and be sued, plead and be impleaded; to use a common seal, and the same to alter, break or renew at pleasure.

Powers and privileges.

SEC. 2. *Be it further enacted*, That the said corporation shall also have, and it is hereby authorized and invested with the right and power to build and construct, and thereafter to use, operate, own and enjoy a railroad or railroads, with one or more tracks, into, along, and across that part of the State of Mississippi lying between the Mississippi river and the Chicago, St. Louis and New Orleans railroad, on such line or lines as shall be deemed best by the board of directors of the company hereby chartered; one of said lines or a branch therefrom to reach the Mississippi river at or near a point opposite Arkansas City if practicable, so as to connect such point on the east bank of the Mississippi river with some point or points on the line of the Chicago, St. Louis and New Orleans railroad; one of said lines of railroad, or a branch therefrom, to be extended to or pass through Yazoo City, Mississippi; and said company shall have the right and power, and are hereby authorized to build one or more branches or lines of railroads between the Mississippi river and Deer creek, and between Deer creek and the Sunflower river, and between the Sunflower and Yazoo rivers, in the direction of or to the north line of this State, and extend the same, or any one thereof, in the direction of or to the south boundary line of this State, as shall from time to time, in the judgment of said company, be deemed proper; and shall also be authorized to construct and operate such spurs or laterals from or along such main line or branches not exceeding one hundred miles in length, as may from time to time be necessary or proper to fully develop said country lying west of the Chicago, St. Louis and New Orleans railroad, and east of the Mississippi river, in this State; and the said company, as soon as and whenever, from time to time, they have located said line or lines of railroad or branches, spurs or laterals thereto, or any of them, shall file in the

One or more tracks.

Where roads may be built.

Spurs or laterals.

Shall file statement.

office of the secretary of state a statement showing the general line thereof as far as the same has up to that time been located.

Capital stock.

SEC. 3. *Be it further enacted*, That the capital stock of said company shall be five millions of dollars, but the same may be, from time to time, increased to a sum or sums not exceeding the amounts actually expended by said company in constructions, completions, equipments and additions to said railroads and property; and said company may issue any part of said stock as preferred stock, and fix the relative rights of common and preferred stock as to dividends and income, and they may issue said stock or any part thereof as fully paid and not liable to calls; and also such bonds and obligations as they may from time to time determine; said capital stock shall be in shares of one hundred dollars each, and each share thereof shall entitle the holder to one vote, under such regulations as the company may in its by-laws provide; said stock shall be deemed personal property, transferable by assignment agreeably to the by-laws of said company, and may be owned and voted by any person, association or corporation of this or any other State or country, in person or by proxy, with the same power as such stockholder (though an alien or foreigner,) to bring and maintain suits, or do other acts, in his right as such stockholder, as if a resident and citizen of this State.

Preferred and common stock.

In shares of $100.

Rights of stock.

SEC. 4. *Be it further enacted*, That the affairs of said company shall be managed by a board of directors and such officers and agents under them as the interests of the company may, from time to time require; such board of directors shall consist of such a number of members as the company may determine, from time to time, but not less than five; one of whom shall be a resident of the State of Mississippi; and said board shall have power to appoint an executive committee with full power to act in their stead and place, at all times when said board of directors is not in session; the persons named in the first section of this act, may of their number organize a board of directors who may open books of subscription to the capital stock of said company, and when five hundred thousand dollars of stock has been subscribed, shall call a meeting of the stockholders or subscribers thereto, for the election of a board of directors; the term of office of director of said company shall be three years, and until his successor is elected and qualified,

Directors and other officers.

Executive committee.

Books of subscription.

Director for three years.

but in the first election of directors by the stockholders or subscribers to the capital stock as above provided, part of said directors shall be elected for one year, part for two years and part for three years, as may be determined at said meeting; and in each subsequent year a number of directors shall be elected by the stockholders equal to the number of directors, whose term of office expires in such year; and said board of directors may, of their number, elect a president and fix his term of office and compensation; and may provide for the election of or appointment and removal of such other officers and agents as, and when they please, and may create and abolish such offices, fix the duration and compensation thereof, from time to time, as may seem best, and may adopt, modify or alter by-laws for said company at their will, not inconsistent with the laws of this State, and do all other acts proper or necessary to be done in the management of the affairs of said company.

How directors elected.

President.

By-laws.

May mortgage property.

SEC. 5. *Be it further enacted*, That said company may, from time to time, mortgage or convey in trust any or all of its property, real, personal and mixed, of any and every description whatsoever, then owned or thereafter to be acquired, and also all or any of its rights, powers, privileges, liabilities, immunities and franchises whether then owned, possessed and enjoyed or thereafter to be acquired, including its rights to be a corporation; and under such deed or deeds of trust or mortgage secure, execute and dispose of the mortgage bonds of said company, to such amounts and maturing at such times and bearing such interest as it may deem best; said company may also execute a mortgage or mortgages and trusts as aforesaid, to secure bonds or obligations of other railroad companies, or may endorse the bonds of any other railroad company or companies; or in any other manner guarantee such bonds and secure the same by a mortgage or mortgages on its own property and franchises, then owned or thereafter to be acquired, as fully as it could do if the bonds were issued by it as aforesaid; said company may consolidate with any other railroad company in or out of the State of Mississippi upon such terms as the consolidating companies may agree upon; and it may lease its railroads and all its property and franchises, rights, powers, privileges and immunities then owned or thereafter to be acquired, or lease

Endorse bonds of other companies.

Consolidate with other companies.

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other railroads in or out of this State, for a term of years or in perpetuity, and upon any such consolidation, the consolidated company shall have and enjoy all the property, rights, privileges, powers, liberties and immunities and franchises herein granted; but such consolidation shall not have the effect of exempting from taxation the railroad or property owned by such other consolidating company prior to its consolidation with the company hereby chartered; nor of exempting from taxation any property which the consolidated company may, after such consolidation acquire under the provisions of the charter of such other consolidating company; and in case of a lease, the *lease* shall, so far as the terms of the lease may allow, enjoy and possess all the property, rights, powers, privileges, liberties, immunities and franchises which the lessor had as to the leased premises; the said company is also authorized to do an express business over its own and other lines of railroad and steamboats or other conveyances in and out of this State; and to acquire or put up, use and operate a line or lines of telegraph in this and other State or States, and to acquire, hold and enjoy all such property as may be proper, necessary or convenient in doing the said express or telegraph business: *Provided*, that by such consolidation the maximum in section six applies only to roads hereafter built.

Rights of consolidated company.

As to exemption from taxation.

In case of a lease.

Express and telegraph business.

Maximum in sec. 6.

SEC. 6. *Be it further enacted*, That said company shall have and possess the power of fixing from time to time, by its board of directors, the rates at which it will do express and telegraph business, and shall transport — other express companies as may apply for transportation over its line at a just and reasonable rate of compensation, and also the rates at which said company will transport persons or property over its railroads and branches: *Provided*, said last-mentioned rates shall not exceed four cents per mile for each passenger, nor exceed the following rates on freight: Sixty-five cents per hundred pounds for transporting first or second class freights one hundred miles or less; forty-five cents per hundred pounds for transporting third or fourth class freights one hundred miles or less; thirty-two cents per hundred pounds for transporting fifth or sixth class freights one hundred miles or less: (reference being had herein to the classification of freights now recognized and observed on the existing railroad line between New Orleans

Rates for express and telegraph business.

Rates for passengers and freights.

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No package less than 25 cents

and Jackson, Mississippi). But in no case shall the railroad company be limited to a less charge than twenty-five cents for the transportation of any passenger, or parcel, package or article, however short the distance. The rates so established from time to time by the said board of directors for transporting persons or property as a railroad company, not exceeding the maximum rates for railroad business, as above set out, may be charged and collected by said company: *Provided, further,*

Special rates for lumber, coal, iron, etc.

that as to lumber, coal, iron, salt, machinery, fertilizers, bricks, lime, agricultural implements, steam-engines and boilers, and other freights transported in car-loads, rates may be made by special agreements between the shippers and the company, for such sums as they may agree upon;

Same rates to all shippers.

but in all such cases the same rates shall be given to any shipper of an equal quantity, at the same time, under similar circumstances of similar freight between the same points. Nothing herein contained shall prevent the railroad company

Rates below maximum.

from making such reduction of rates below the maximum herein fixed as it may elect to do, for the purpose of fostering, aiding and developing the resources of the country, penetrated by its railroads and branches.

Right of way and materials granted.

SEC. 7. *Be it further enacted*, That the right of way is hereby granted said company to pass in and through the State of Mississippi, with said railroads, branches, spurs and laterals aforesaid, and to enter upon and use all lands, rocks, timber, earth, sand, gravel, water or other materials, which may be found on the routes selected, and which may belong to the State of Mississippi, and be convenient or necessary for the use of said railroads; and wherever said railroads or the branches, spurs or laterals aforesaid are located, over any lands belonging to this State, the title in fee-simple,

100 feet on each side of track.

to one hundred feet on each side of the center of said railroad track or tracks shall vest in said company, its successors and assigns; and said company is hereby authorized to cause such examinations and surveys to be made as shall be deemed necessary to determine the most eligible route or routes upon which to locate its line or lines, branches, spurs or laterals, and to enter upon and appropriate all such lands and materials as may be private property, which may be convenient or necessary for said road, together with one hundred feet on each side of the

center of such road, laterals, branches, or spurs; and in case the company fails to agree with the owners of such lands or materials upon the price to be paid for the fee-simple title thereto, or in case the owner is under any disability in law to contract, or is absent from the county where such lands or materials are situate, or is unknown, the company may proceed to condemn such lands or materials as provided in section eight of the act, approved March 10, 1852, entitled "An act to incorporate the Mississippi Central Railroad Company," with all the rights and powers as therein provided; and upon such condemnation being had, the title in fee-simple to such lands or materials, shall vest in the said company, its successors and assigns. Said company is also authorized to construct, maintain and operate its said railroads, branches, spurs and laterals under, over or across any and all streams and bodies of water in this State, whether navigable or not, which lie along or across the lines selected for said railroads, branches, laterals or spurs; and to erect, use and maintain ferries and bridges over the same: *Provided*, that wherever a navigable stream or body of water is crossed by a bridge of said company, there shall be maintained a draw in such bridge sufficient to allow the passage of boats and water crafts plying such waters, which draw shall be so operated as to cause no unreasonable delay to the passage of such water craft; and the said company is also authorized and empowered, so far as this State can or may give such power and authority, to build, construct, maintain and operate of itself or with others, in or out of this State, a ferry across or a tunnel under, or a bridge over the Mississippi river at any point within this State, where its railroads, branches, laterals or spurs may reach said river, and to acquire and hold all such lands and materials as are or may be necessary or convenient for landings, wharves, inclines or approaches thereto; and it may establish such transfer landings, wharves, approaches and inclines as are or may be necessary or convenient in transferring by boat or other water craft, all or any freights, passengers, cars or rolling stock, loaded or unloaded, upon and across said Mississippi river or any other river or body of water within this State, and may own, use, operate and control of itself or others, all such steamboats, ferries or other water craft as are or may be convenient or necessary in crossing such

In case of disagreement with owner.

How lands may be condemned.

Vest title.

May build road across streams.

Draw-bridges.

Ferries and tunnels.

Transfer landings, wharves, etc.

Steamboats, ferries, etc.

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water or plying therein, so as to develop trade over its said lines of railroad.

Exempt from tax for 20 years.

Oil mills and compresses excepted.

When exemption expires.

Taxes to be paid State treasurer.

Cities and towns not to tax.

SEC. 8. *Be it further enacted*, That in order to encourage the investment of capital in the works which said company is hereby authorized to construct and maintain, and to make certain in advance of such investment, and as an inducement and consideration therefor, the taxes and burdens which this State will and will not impose thereon, it is hereby declared that said company, its stock, its railroads and appurtenances, and all its property in this State, necessary or incident to the full exercise of all the powers herein granted—not to include compresses and oil mills—shall be exempt from taxation for a term of twenty years from the completion of said railroad to the Mississippi river, but not to extend beyond 25 years from the date of the approval of this act; and when the period of exemption herein prescribed shall have expired, the property of said railroad may be taxed at the same rate as other property in this State. All of said taxes to which the property of said company may be subject in this State, whether for county or State, shall be collected by the treasurer of this State and paid into the State treasury, to be dealt with as the legislature may direct; but said company shall be exempt from taxation by cities and towns.

May insure passengers or freights.

Charges for storage.

Depots, etc.

Compresses and oil mills.

SEC. 9. *Be it further enacted*, That said company shall have power, and is hereby authorized to insure persons and property, or either, transported or to be transported over or on any part of its lines of railroad, and all other property coming, or about to come into the possession or control of said company for purposes of transportation, or incident thereto, or for storage in any of its depots, or storage-houses, or wharves, and to charge and collect reasonable compensation for such insurance or storage, but no charge for storage shall be made on freights transported by them to their several railroad depots, until the consignee has had a reasonable time in which to remove the same. And it is authorized to erect or acquire, maintain and use such depots, storage-houses, wharves, sheds, or other buildings or depositories in or out of this State, as shall be necessary or convenient in the exercise of the powers granted in this charter; and said company shall have power to construct and operate compresses and oil mills.

May build roads through towns.

SEC. 10. *Be it further enacted*, That this company be and it is hereby granted the right to run its railroads, branches, laterals or spurs into the corporate limits of any incorporated town or city, reached by the line or lines of said railroad, as they may hereafter be located, under the powers herein granted, and to build and operate such railroad tracks, across or along any streets of such incorporated municipality; *Provided*, that such part of said railroad as shall be located in, across, under or upon any such street, shall be so constructed and operated as shall not unreasonably hinder its use as a street.

Meetings and offices.

SEC. 11. *Be it further enacted*, That the board of directors, stockholders, executive committee and officers and agents of said company, may hold their meetings and transact the business of said company, in or out of this State, and may establish such offices as they may from time to time deem best, in or out of this State. And any and all acts done by said company, its officers or agents, out of this State, shall be of the same force and effect as if done within this State.

Claims for damages.

SEC. 12. *Be it further enacted*, That no mortgage executed by said company shall protect its property against the collection of claims for damages done by its engines and cars to the persons or property of citizens and residents of the State of Mississippi.

If 20 miles not built in three years.

SEC. 13. *Be it further enacted*, That unless said company shall construct and have in operation twenty miles of railroad within three years from the passage of this act, the legislature shall have the right to declare this charter forfeited.

SEC. 14. *Be it further enacted*, That all acts in conflict with this act, or any part thereof, be and the same are hereby repealed, and that this act take effect and be in force from and after its passage, the public welfare requiring it.

Approved, February 17, 1882.

46 *Lease of* 1888.

This indenture made the 31st day of March, A. D. 1888, by and between the Yazoo and Mississippi Valley Railroad Company, a corporation created under the laws of the State of Mississippi, herein designated as party of the first part, and the Illinois Central Railroad Company, a corporation created under the laws of the State of Illinois, hereinafter designated as the party of the second part, witnesseth:

1. That for the considerations hereinafter mentioned, the said The

Yazoo and Mississippi Valley Railroad Company, party of the first part aforesaid, being thereunto duly authorized by law and also by the action of its executive committee and its stockholders, doth hereby demise and lease to the Illinois Central Railroad Company, party of the second part aforesaid, the railroad and the telegraph line of the party of the first part which are now built and in operation, consisting of its railroad extending from its junction with the Chicago, St. Louis and New Orleans railroad at or near Jackson, in the county of Hinds, and State of Mississippi, thence through Yazoo City to Parsons, in the State of Mississippi, and also the railroad extending from Tchula junction through Lexington to Durant, Mississippi, in all one hundred and forty miles of railroad, more or less (it being all the railroads which the party of the first part has now in operation), including the road-bed, superstructure and rights of way of the railroads aforesaid, and the side tracks, spurs, bridges, station-houses and station grounds, engine-house and grounds, ware-houses and grounds, turn-tables, water tanks, fences and all other buildings or structures, fixtures, tools, or appurtenances of, in or to the said railroads belonging, which are now owned by the party of the first part.

Including also the engines and cars and other rolling stock of every description now owned by the party of the first part, and all and singular the easements, servitudes, hereditaments and appurtenances of said railroads and the right and franchise to use, operate and enjoy said divisions or parts of the railroad system which the party of the first part is by its charter authorized to build or acquire, being all that it has up to this time built or acquired and put in operation. Including also the franchise and right, as authorized and granted by its said charter, to fix, demand and
47 collect toll or charges for transporting passengers and freight, mail or express matter thereon, as fully as the party of the first part could under its charter do. Including also the exemption from taxation of the leased premises aforesaid under the provisions of said charter. Together with all the telegraph line, poles, wires, batteries and all its fixtures and appurtenances which are now owned and operated by the party of the first part along said railroads or elsewhere. (But this lease does not include or encumber any part or division of the railroad or telegraph line, or their appurtenances, which the party of the first part may hereafter build or acquire; or any of its lands which are now owned except those which are appurtenant to the leased premises and used as rights of way or station grounds, or which are situated within one hundred feet from the center of the main or side tracks of the railroads so leased as aforesaid; or any of its charter rights, privileges, powers, exemptions or franchises, except such as are necessary to the full enjoyment, use, control or dominion of the leased premises aforesaid by said lessee during the term of this lease.)

To have and to hold the leased premises aforesaid, with the appurtenances, unto the party of the second part aforesaid, and its successors, from the date of this indenture until and to the first day of June, A. D. nineteen hundred and fifty-two (1952).

2. And the party of the first part covenants that it will at any and at all times during the continuance of this lease, upon the reasonable request of the party of the second part, do all acts, and sign, seal, acknowledge and deliver all such further or other papers, deeds, transfers or agreements which are or may be necessary to assure and make certain unto said party of the second part the leased premises aforesaid and the possession, use, and enjoyment of every part thereof, for and during the full term of this indenture.

3. And the party of the second part hereby covenants and agrees that it will, during the term that this indenture may continue in force, operate said leased railroads and telegraph lines in compliance with the charter of the party of the first part, and will indemnify and hold harmless the said party of the first part from all and every of the liabilities or penalties which may arise from or be founded on its acts or omissions as such lessee in the use of the leased premises in anywise whatsoever; and at the termination of this lease will surrender and restore the possession and control of the leased premises to the party of the first part in as good condition as the same now are, and that as to anything included in this lease, which from any cause cannot be returned in as good condition as it now is, it will replace the same by one as good as the one which it receives under this lease.

4. The party of the second part further covenants and agrees that it will pay to the party of the first part the net earnings of said leased premises, semi-annually, to wit, on the first days of June and December in each year, and that said net earnings shall amount to at least one hundred thousand dollars per annum during the continuance of this lease, and that in case said net earnings do not amount to said last-mentioned sum it will pay such an
48 amount in addition to such year's net income as shall, together with such net income, amount to the sum of one hundred thousand dollars for that year.

5. It is covenanted and agreed by both parties hereto that this lease may be terminated upon six months' written notice by either party to the other of its desire to end the same; and at the time so fixed in said notice, if the same be six months or more from the time of the service thereof on the other party, this lease shall be as fully determined and ended as if said date was herein declared to be the end of the term of this lease.

6. The covenants and agreements hereinbefore set out are not only in behalf of and by the respective parties hereto, but also in behalf of and binding on their successors, respectively, whether the same be so expressed in each covenant or not.

In witness whereof, the Yazoo and Mississippi Valley Railroad Company and the Illinois Central Railroad Company have hereunto

set their respective names and common seals, this the day and date first above written.

THE YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY,
By STUYVESANT FISH,
[SEAL.] *President.*

Attest: JOHN ANTHON, *Secretary.*

ILLINOIS CENTRAL RAILROAD COMPANY,
By STUYVESANT FISH,
[SEAL.] *President.*

Attest: A. G. HACKSTAFF, *Secretary.*

STATE OF NEW YORK, } ss:
City and County of New York, }

Be it remembered that on this 10th day of April, A. D. 1888, before me, William H. Clarkson, a commissioner of the State of Mississippi, in and for the State of New York, residing in said city of New York, and notary public for New York county, personally appeared the foregoing-named Stuyvesant Fish, president of the Yazoo and Mississippi Valley Railroad Company, and John Anthon, secretary thereof, who acknowledged that they signed, sealed and delivered the foregoing instrument, on the day and year therein named, as their voluntary act and deed, and the voluntary act and deed of said company.

And the said Stuyvesant Fish and John Anthon, being duly sworn, deposed and said that they were the above-described officers of said company, that the seal affixed to the foregoing instrument purporting to be the corporate seal of said company was such corporate seal, that it was affixed thereto by order of the executive committee and the stockholders of said company, and that they signed their names thereto by the same authority as the president and secretary of said company respectively. And on the same day
49 before me also personally appeared the said Stuyvesant Fish, as the president, and A. G. Hackstaff, secretary, of the Illinois Central Railroad Company, who acknowledged that they signed, sealed and delivered the foregoing instrument as their voluntary act and deed as such officers of said company, and the voluntary act and deed of said company.

And the said Stuyvesant Fish and A. G. Hackstaff, being by me first duly sworn, they did depose and say, that he the said Stuyvesant Fish was the president of the said Illinois Central Railroad Company, that he the said A. G. Hackstaff was the secretary of the same company, that the seal affixed to the foregoing instrument was the corporate seal of said company, that it was affixed thereto by order of the board of directors of said company, and that they

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signed their names thereto by the like order as the president and secretary of said company respectively.

Witness my hand and official seals.

[Commissioner's Seal.]

WILLIAM H. CLARKSON,
Commissioner for the State of Mississippi in New York and Notary Public for New York County, N. Y.

[NOTARY'S SEAL.]

(Here follows map marked page 50.)

51 Defendant offered in evidence the journals of the legislature for the years 1886, 1888, 1890, & 1896.

Offered to show the effort to repeal the exemption in question, amongst others, and the refusal of the legislature to pass such bills.

Objected to by plaintiff. Objection sustained, and defendant excepted.

Defendant thereupon offered and read in evidence the lease of the Yazoo & Mississippi Valley Railroad Company to the Illinois Central Railroad Company; which said lease is offered in the words and figures following, to wit: (By agreement of counsel the above-mentioned lease or exemption of taxation granted it by the city of Jackson on the — day of ——, 1892, which is in the words and figures following, to wit:)

(Clerk will here copy same.)

Exemption from Taxation by the City of Jackson.

SECTION 1. Be it ordained by the board of mayor and alderman of the city of Jackson:—

That the property of the C. St. L. & *M.* O. R. R. Company, and of the Yazoo & Mississippi Valley R. R. Company, used in maintaining and operating said roads within the city limits, is hereby released from all city taxation for twenty years from date; provided, that the Yazoo & Mississippi railroad select Jackson for its southeastern terminus; and provided further, that the work on said road be commenced within one year and completed within three years to Yazoo City.

SEC. 2. Be it further ordained: That this ordinance be in force and take effect from and after its adoption.

Adopted May 5th, 1892.

Plaintiff objected to the introduction of said exemption from the city of Jackson, on the ground that the city had no authority in law to grant said exemption, and moved to have the same excluded; which motion was by the court sustained, the evidence excluded, and the defendant excepted, and its exception was allowed; whereupon defendant rested.

52 This was all the evidence offered in the case; whereupon plaintiff asked the court to give the following charge, to wit:

The court instructs the jury to find for the plaintiff in such sum as they may believe from the evidence to be due and owing said several cities, towns, and villages for taxes for the years mentioned in the declaration; which instruction was given by the court and signed by the clerk and filed as a part of the record in the case.

And the defendant presented to the court and asked to have given to the jury the following charge, to wit: The court instructs the jury to find for the defendant; which instruction asked by the defendant the court refused and marked it refused, and it was signed by the clerk, filed, and made a part of the record in the case.

To the granting of said instruction to plaintiff and the refusal of said instruction asked by it the defendant then and there excepted, and its exception was allowed.

And after said cause had — submitted to the jury they returned into court their verdict, which appears in the record, upon which the judgment in the record was rendered.

And afterwards the defendant filed in said cause its motion for a new trial, which appears in the record, which came on for hearing and was considered and overruled by the court; to the action of the court in the overruling of said motion the defendant then and there instantly excepted and tendered this its bill of exceptions, which it asks may be signed by the court, filed, and made a part of the record in the case; all of which is accordingly done this the 22nd day of Aug., 1898.

ROBERT POWELL, *Judge.*

O K.
WILLIAMSON & POTTER.

Filed August 24th, 1898.

F. B. NEAL, *Clerk,*
By W. J. BROWN, *D'y Clerk.*

53 *Appeal Bond.*

THE STATE OF MISSISSIPPI, }
Hinds County. }

Know ye that we, The Yazoo & Mississippi Valley Railroad Company and John Hart and Edward Mayes, are held unto Wirt Adams, State revenue agent, in the sum of sixteen thousand dollars; for the payment of which we bind ourselves and legal representatives, jointly and severally, firmly by these presents.

Signed with our names this 24th day of August, 1898.

The condition of the obligation is that the above-named Wirt Adams, State revenue agent, on the 1st day of July, 1898, before the circuit court of district No. one for said county, obtained a judgment against the above-bound Yazoo & Miss. Valley R. R. Co. for the sum of seventy-five hundred sixty-two & $\frac{88}{100}$ dollars, with interests and costs, and the said Yazoo & Miss. R. R. Co. hath prayed an appeal to the next term of the supreme court for said State; therefore, if the said Yazoo & Miss. Valley R. R. Co. shall pay and

satisfy such judgment as the supreme court may render against it in the premises, then this obligation to bevoid; otherwise to remain in full force and effect.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD CO.,
By E. MAYES.
JOHN HART,
By BEN. HART.

Filed Aug. 24, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y Clerk*.

The foregoing bond and security approved this 24th day of August, 1898.

F. B. NEAL, *Clerk*,
By W. J. BROWN, *D'y C'k*.

54 *Certificate.*

STATE OF MISSISSIPPI, }
Hinds County. }

I, F. B. Neal, clerk of the circuit court in and for said county and State, hereby certify the foregoing and annexed twenty-four pages to contain a full, true, and correct transcript of the record of the cause stated in the caption as the same remains on file and of record in my office.

Given under my hand and the seal of said court this 7th day — November, 1898.

F. B. NEAL, *Clerk*,
[SEAL.] By W. J. BROWN, JR., *D. C.*

Record endorsed: Filed November 19th, 1898. E. W. Brow-, clerk, by C. C. Campbell, D. C.

55 STATE OF MISSISSIPPI, }
County of Hinds. }

In the Supreme Court, at the November Special Term, 1898, First District.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD COMPANY, Appellant,
v.
WIRT ADAMS, State Revenue Agent, Appellee. } 9206.

Assignment of Errors.

Comes the appellant herein, The Yazoo & Mississippi Valley Railroad Company, and for error assigns as follows:

1. The court below erred in sustaining the demurrer to the defendant's second plea.

2. The court below erred in sustaining the demurrer to the defendant's third plea.

3. The court below erred in sustaining the demurrer to the defendant's fourth plea.

4. The clerk below erred in failing to attach the demurrers of plaintiff to pleas of the defendant to the plaintiff's own declaration and amended declaration.

5. The court below erred in giving the peremptory instruction for the plaintiff.

6. The court below erred in refusing the instruction asked by the defendant.

7. The court below erred in overruling the defendant's motion for a new trial.

Respectfully submitted.

HARRIS & MAYES,
Att'ys for Appellant.

Endorsed: Filed Nov. 30, 1898. E. W. Brown, clerk, by C. C. Campbell.

56 YAZOO & MISSISSIPPI VALLEY R. R. Co., Appellant,
v.
WIRT ADAMS, State Rev. Agent, Appellee. } 9206.

In this cause it is agreed between the appellant and appellee as follows:

First. That the appellee in the court below demurred generally to the second plea of the appellant, and that the court sustained such demurrer, and an order was duly entered to that effect, which should appear in the transcript, and that this order shall be considered as in the transcript.

Second. That on the trial below the court gave a peremptory instruction for the plaintiff and refused one asked by the defendant, and such instructions should appear in the transcript, and will be treated as if they were in the same.

Third. It is agreed that the journals of the legislature for the years 1886, 1888, 1890, & 1896 may be considered as part of this record, and all entries therein showing efforts to repeal the railroad exemptions from taxation, either generally or specially, may be referred to by either party hereto without being copied into this record.

Fourth. It is further agreed that in the year 1882 the defendant below made a lease to the Illinois Central Railroad Company for a term of fifty years of all the property in the declaration mentioned, and did then deliver the same to the I. C. Company pursuant to such lease; that by said lease the said Illinois Central Company agreed & promised to pay off & discharge all taxes legally assessed & levied by said Y. & M. V. R. R. Co. or against & upon & because of such property during the continuance of such lease. It is further agreed that this cause shall be treated & decided as if such lease were incorporated in the transcript herein.

WILLIAMSON & POTTER,
Att'ys for Appellee.
MAYES & HARRIS,
Att'ys for Appellant.

Endorsed: Filed Dec. 6, 1898. E. W. Brown, clerk, by C. C. Campbell, D. C.

57 On the 14th day of December, 1898, the same being a day of the November special term of the supreme court of Mississippi, an entry was made upon the minutes of said court in said cause in words and figures as follows:

Y. & M. V. R. R. Co.
v.
WIRT ADAMS, Rev. Agt. } 9206.

Submitted on brief by Messrs. Williamson & Potter, for the appellee, with leave to the appellant to file brief within a week.

And on the 27th day of March afterwards, the same a day of the regular March term, A. D. 1899, of said court, final judgment was rendered by said court and entered upon the minutes thereof in the following words and figures, to wit:

YAZOO & MISSISSIPPI VALLEY RAILROAD CO.
v.
WIRT ADAMS, State Revenue Agent. } 9206.

This cause having been submitted at a former term of this court on the record herein from the circuit — of Hinds county, 1st district, and this court, having sufficiently examined and considered the same and being of opinion that there is no error therein, doth order and adjudge that the judgment of said circuit court rendered in this cause at the June term thereof, A. D. 1898, on the *the* 1st day of July, 1898, be, and the same is hereby, affirmed; and it is further considered and so ordered and adjudged by this court that the appellee do have and recover of the appellant and John Hart and Edward Mayes, sureties in the appeal bond, the sum of seven thousand five hundred and sixty-two and $\frac{88}{100}$ dollars, the amount of the judgment in the court below, together with the sum of three hundred and seventy-eight and $\frac{14}{100}$ dollars, being damages, at the rate of 5 *% per centum*, as allowed by law, as well as interest on the amount of the said judgment from date of rendition till paid,
58 at the rate of 6 *% per centum* per annum, and also the costs of this cause in this court and the court below expended, &c., to be taxed, &c.

Opinion of the Court.

Y. & M. V. R. R. Co.
v.
WIRT ADAMS, State Revenue Agent. } 9206.

WHITFIELD, *J.*:

The preamble of the act under which the exemption here is claimed recites as follows: "Whereas the physical difficulties of constructing and maintaining railroads to, across, along, or within either

the Mississippi, Sunflower, Deer Creek, or Yazoo bottoms, or basins, or other alluvial lands herein referred to, are such that no private company has so far been able to establish a railroad or branches developing said basins and alluvial lands, and connecting them with the railroad system of the country, therefore in order to induce the investment of capital in the construction of said road, &c.," numerous and extraordinary privileges were granted, among others an exemption from taxation as set out in § 8 of the act, upon the express conditions of "the completion of said road (that is the Yazoo and Mississippi Valley R. R.) to the Mississippi river."

And yet, without pretense of ever having "completed" the construction of the said railroad to the Mississippi river, it is gravely urged that because the Y. & M. V. R. R. Co. consolidated with the L., N. O. & T. R. R., which had bought the N. J. & C. R. R., the exemption had been earned. It ought to be obvious that a paper consolidation is not a completion by physical construction to the Mississippi river. The reasons underlying the exemption—the consideration to the State—are plain, are adverted to in the preamble, and utterly negative the claim of appellant. Adams v. R. R. Co. 75 Miss., 275; Yazoo & Mississippi Valley R. R. v. Thomas, 65 Miss. 562, affirmed 132 U. S.

The city of Jackson had no power to grant the exemption claimed.

There is no merit in any of the contentions.

Affirmed.

59 UNITED STATES OF AMERICA, *State of Mississippi*, } ss:

THE YAZOO & MISSISSIPPI VALLEY COMPANY *et al.* v. WIRT ADAMS, State Revenue Agent. } Petition for Writ of Error, etc.

To the Honl. Thomas H. Woods, chief justice of the supreme court of the State of Mississippi:

The petition of the Yazoo & Mississippi Valley Railroad Company and of John Hart and of Edward Mayes respectfully shows that on the 27th day of March, 1899, the said supreme court rendered judgment against the petitioners in a certain cause wherein your petitioner, The Yazoo & Mississippi Valley Railroad Company, was the appellant and the other petitioners its sureties on its appeal bond, and Wirt Adams, State revenue agent in and for the State of Mississippi, was appellee, for the sum of $7,562.88, with 6 per cent. interest, and also for statutory damages amounting to $378.14, and for costs, and in legal effect awarded execution thereon, as will appear by reference to the record and proceedings in said cause; that in said suit was drawn in question the validity of certain statutes of the said State of Mississippi, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decisions of said supreme court was

in favor of the validity of such statutes, and that in said suit was drawn in question the validity of certain provisions of the constitution of the said State of Mississippi adopted November 1st, 1890, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such provisions, and *in that* said *writ* was drawn in question the validity of an authority exercised by the State revenue agent under the statutes and constitution of said State, on the ground that the same
is repugnant to the Constitution of the United States and the
60 amendments thereto, and the decision of the said supreme court was in favor of the validity of such authority, and that in said suit was drawn in question the validity of an authority exercised by the railroad commission of said State acting as assessors of the railroad property for taxation, under the statutes and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such authority, and that in said suit was also drawn in question the validity of an authority exercised by the said supreme court of said State by the circuit court of Hinds county, in said State, under the statutes and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such authority, and that in said suit the petitioners, who were appellants, claimed a right under the Constitution and statutes of the United States and the decisions of said supreme court was against the said right specially set up and claimed under such Constitution and statutes, and that in said suit petitioners, who were appellants, claimed a privilege and immunity under the fourteenth amendment to said Constitution and in the decision of said supreme court was against the said privilege and immunity set up and claimed specially under such Constitution and under said fourteenth amendment and under said statutes.

Wherefore your petitioners are aggrieved and they pray for a writ of error, with citation and supersedeas, returnable into the Supreme Court of the United States on the ——.

And, as in duty bound, they will ever pray, etc.

THE YAZOO & MISSISSIPPI — RAILROAD CO.,
By EDWARD MAYES, *Attorney*.

STATE OF MISSISSIPPI:

Desiring to give petitioners an opportunity to test in the Supreme
Court of the United States the questions presented in the
61 foregoing petition and in the assignment of errors by which it is accompanied, it is ordered that a writ of error be, and the same is hereby, allowed by the said court, and that the same be made a supersedeas, the bond in the penal sum of sixteen thousand dollars, also herewith presented, being approved.

In testimony whereof witness my hand this 6th day of May 1899.

THOMAS H. WOODS,
Chief Justice of the Supreme Court of the State of Mississippi.

Endorsed: Filed May 12, 1899. E. W. Brown, clerk, by C. C. Campbell, D. C.

62 STATE OF MISSISSIPPI:

In the Supreme Court, March Term, 1899.

YAZOO & MISSISSIPPI VALLEY RAILROAD CO. ET ALS., Appellants,
—.
WIRT ADAMS, State Revenue Agent, Appellee.

I, Thomas H. Woods, chief justice of the supreme court of the State of Mississippi, at the present time and upon the argument and the hearing of the above-entitled appeal, do hereby certify:

I. That upon said argument and hearing the validity of legislation of the State of Mississippi subsequent to the statute of Feb'y 17th, 1882, was drawn in question by the said Yazoo & Mississippi Valley Railroad Company and the said John Hart and Edward Mayes, on the ground of such legislation being repugnant to section 10, article 1, of the Constitution of the United States, in such that legislation impaired the obligation of a contract between the State of Mississippi and the Yazoo & Mississippi Valley Railroad Company, as embodied in the charter of the said company, and that the decision of the said supreme court of Mississippi was in favor of the validity of such legislation.

II. That upon the said argument and hearing the said Yazoo & Mississippi Valley Railroad Company set up a claim and contract right as conferred by the eighth section of the charter of the said railroad company to exemption *to* taxation by municipalities, and set up a claim that such contract right was protected against impairment by the Constitution of the United States, and the decision of the supreme court of the State was adverse to such claim of contract right and held that the right claimed did not exist. Wherefore that it was not impaired by the subsequent legislation under and by virtue of which the State revenue agent sought to collect the taxes demanded in the suit at bar.

III. That on such argument and hearing the said Yazoo & Mississippi Valley Railroad Company set up and claimed specially under section 8 of the charter of said company a contract right to exemption *to* taxation by the State, counties, or municipalities, on
63 the ground that the said right had been earned under the terms of said contract by reaching the Mississippi river, and the decision of the said supreme court was adverse to said claim of right, holding that the said exemption conferred by said section 8 had not been earned by so reaching said river, and that the contract of said charter was not impaired by the subsequent legislation under

which the State revenue agent prosecuted the suit at bar for the taxes demanded.

IV. That upon the said argument and hearing the said Yazoo & Mississippi Valley Railroad Company set up and claimed an exemption from taxation by the city of Jackson under a special contract made with such city, and the decision of the said supreme court was adverse to such claim, holding that no such contract existed, and that the subsequent legislation under and by virtue of which the State revenue agent was prosecuting his demand in the suit at bar as to taxes due said city of Jackson did not impair the obligation of any contract with said city.

In witness whereof I have hereunto subscribed my name this the 6th day of May, in the year one thousand eight hundred and ninety-nine.

THOMAS H. WOODS,
Chief Justice Supreme Court.

Endorsed: Filed May 12, 1899. E. W. Brown, clerk, by C. C. Campbell, D. C.

64 The Supreme Court of the United States.

Know all men by these presents that we, The Yazoo & Mississippi Valley Railroad Company and John Hart and Edward Mayes, as principals, of the State of Mississippi, and Samuel S. Carter and J. B. Harris, as sureties, of Jackson, Mississippi, are held and firmly bound unto Wirt Adams, State revenue agent, of Jackson, Mississippi, in the sum of sixteen thousand dollars, to be paid to said Wirt Adams, State revenue agent, or his successors in office; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Dated this the 6th day of May, 1899.

Whereas the above-named The Yazoo & Mississippi Valley Railroad Company and John Hart and Edward Mayes have prosecuted a writ of error to the Supreme Court of the United States to reverse a judgment rendered in the above-described cause by the supreme court of the State of Mississippi on the 27th day of March, 1899, in favor of the said Wirt Adams, State revenue agent, against the said plaintiffs in error:

Now, therefore, the condition of this obligation is such that if the above-named plaintiffs in error shall prosecute their said writ of error to effect and answer all costs and damages if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

THE YAZOO & MISSISSIPPI VALLEY
RAILROAD COMPANY,
By EDWARD MAYES, *Att'y.*
JOHN HART.
EDWARD MAYES.
SAM'L S. CARTER.
J. B. HARRIS.

Endorsed: Filed May 12, 18—. E. W. Brown, clerk, by C. C. Campbell, D. C.

65 Supreme Court of Mississippi.

I, E. W. Brown, clerk of the supreme court of Mississippi, by virtue of the annexed writ of error and in obedience thereto, do hereby certify that the foregoing 64 pages contain a true and complete transcript of the record and proceedings had in said court in the cause of No. 9206, Yazoo & Mississippi Valley Railroad Co., plaintiff in error, *v.* Wirt Adams, State revenue agent, defendant in error, as the same remain of record and on file in said office.

In testimony whereof I have caused the seal of said court to be hereunto affixed, at the city of Jackson, in the State of Mississippi, this the 27th day of May, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

[Seal Supreme Court, State of Mississippi.]

E. W. BROWN, *Clerk.*

66 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Mississippi, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said supreme court, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in said suit between Wirt Adams, State revenue agent, as plaintiff, and The Yazoo & Mississippi Valley Railroad Company, as defendant, and wherein judgment was rendered in favor of said plaintiff in said court on the 27th day of March, 1899 A. D., against said defendant and against John Hart and Edward Mayes, sureties, and in which suit was drawn in question the validity of certain statutes of the State of Mississippi, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity thereof, and in which suit was also drawn in question the validity of certain provisions of the constitution of the State of Mississippi adopted November 1, 1890, on the ground of their being repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity thereof, and in which suit was also drawn in question the validity of an authority exercised by the said State revenue agent under the statutes and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such authority, and in which suit was also drawn in question the validity of an authority exercised by the railroad commission of said State acting as assessors of railroad prop-

erty for taxation under the statutes and Constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decis-
67 ion of said supreme court was in favor of such authority, and in which suit was also drawn in question the validity of an authority exercised by said supreme court and by the circuit court of Hinds county, in said State, under the statutes and constitution of said State, on the ground that the same is repugnant to the Constitution of the United States and the amendments thereto, and the decision of said supreme court was in favor of the validity of such authority, and in which suit the Yazoo & Mississippi Valley Railroad Company claimed a right under the Constitution and statutes of the United States and the decision of said supreme court was against such right specially set up and claimed under such Constitution and statutes, and in which suit the said Yazoo & Mississippi Valley Railroad Company claimed a privilege and immunity under the Constitution and statutes of the United States and under the fourteenth amendment to such Constitution and the decision of the said supreme court was against the said privilege and immunity so set up and specially claimed under such Constitution and under said fourteenth amendment and under said statutes, a manifest error hath happened, to the great damage of said Yazoo & Mississippi Valley Railroad Company and of said John Hart and of said Edward Mayes, as by their complaint appears, we, being willing that the error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment therein be given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with the writ, so that you may have the same in Washington on the 10th day of June next, in the said Supreme Court to be then and there held, that, the record of proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of
68 right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court, the 11th day of May, in the year of our Lord one thousand eight hundred and ninety-nine.

Witness also my signature and the seal of the circuit court of the United States in and for the southern district of Mississippi this the day aad year aforesaid.

[Seal U. S. Circuit Court, 5th Circuit, Southern District of Mississippi.]

L. B. MOSELEY, *Clerk.*

Supreme Court of Mississippi.

I, E. W. Brown, clerk of the supreme court of Mississippi, by virtue of the within writ of error and in obedience thereto, do hereby send herewith the record and proceedings in said cause, duly certi-

fied and authenticated according to law, to the honorable Supreme Court of the United States.

In testimony whereof I have caused the seal of said court to be hereunto affixed, in the city of Jackson, in the State of Mississippi, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

[Seal Supreme Court, State of Mississippi.]

E. W. BROWN, *Clerk.*

[Endorsed:] 9206. Yazoo & Miss. Valley Railroad Co. *et als.*, pl'ffs in error, *v.* Wirt Adams, State revenue agent, def't in error. Writ of error. Filed May 12, 1899. E. W. Brown, clerk, by C. C. Campbell, D. C. Copied. Copied. Copy.

69 UNITED STATES OF AMERICA:

To Wirt Adams, State revenue agent, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, in the District of Columbia, within thirty days from the date hereof, pursuant to a writ of error filed in the supreme court of the State of Mississippi, wherein The Yazoo & Mississippi Valley Railroad Company and John Hart and Edward Mayes are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Thomas H. Woods, chief justice of the supreme court of the State of Mississippi, this the 11th day of May, A. D. 1899.

THOMAS H. WOODS,
Chief Justice of the Supreme Court of Mississippi.

Received this writ on the 11th day of May, 1899, at Jackson, Miss., and executed the same day upon the within-named Wirt Adams by handing to him personally a true copy hereof at Jackson, Mississippi.

F. W. COLLINS,
U. S. Marshal,
By R. O. EDWARDS, *Deputy.*

[Endorsed:] Filed May 25, 1899. E. W. Brown, clerk.

70 Supreme Court of the United States, October Term, 1898.

THE YAZOO & MISSISSIPPI VALLEY RAILROAD CO. ET ALS., Plaintiffs in Error,
v.
WIRT ADAMS, State Revenue Agent, Defendant in Error.

Afterwards, to wit, on the 6th day of May, 1899, before the justices of the Supreme Court of the United States, at the Capitol, in the

city of Washington, come the said Yazoo & Mississippi Valley Railroad Company and the said John Hart and the said Edward Mayes, plaintiffs in error, by their and each of their attorney, Edward Mayes, and say that in the record and proceedings aforesaid there is manifest error in the particulars following, to wit:

1. The said supreme court of the State of Mississippi erred in rendering the judgment of March 27th, 1899, whereby the tax provisions of the Annotated Code of 1892 and chapter 26 of the said Annotated Code of 1892, providing for the office of revenue agent of the State of Mississippi, and chapter 34 of the Session Laws of the Year 1894, making further provision for the said office of State revenue agent and defining the powers of that office, were given effect against the contract rights of the plaintiffs in error, The Yazoo & Mississippi Valley Railroad Company, embodied in the act of February 17th, 1882, which constitutes the charter of the Yazoo and Mississippi Valley Railroad Company, whereby the obligation of the contract rights therein in respect to its exemption from taxation was impaired, contrary to section 10, article 1, of the Constitution of the United States.

2. The said supreme court erred in its decision and judg-
71 ment of December 20th, 1897, at the December term, 1897, of said supreme court in reversing the decision and judgment of the trial court whereby said trial court had sustained the demurrer of the defendant to the declaration of the plaintiff below and had dismissed the action of said plaintiff.

3. The said supreme court erred in its judgment and decision of the 27th of March, 1899, in affirming the judgment of the trial court rendered at the July term, 1898, and especially in holding that the second plea of the defendant below was not sufficient in law, and that said defendant below had not earned its exemption under its contract by reaching the Mississippi river, and in holding the fourth plea to be insufficient in law.

4. The said supreme court erred in its decision and judgment of March 27th, 1899, in affirming the decision and judgment of the trial court rendered at the July term, 1898, and especially in their holding that the third plea of the defendant below was insufficient in law, and that there was no valid and binding contract in respect to its exemption between the said defendant below and the said city of Jackson.

And the said Yazoo & Mississippi Valley Railroad Company and the said John Hart and the said Edward Mayes pray that the judgment aforesaid may be reversed, annulled, and altogether held for nought, and that they may be restored to all things which they have lost by occasion of said judgment.

THE YAZOO & MISSISSIPPI VALLEY
RAILROAD COMPANY,
By E. MAYES, *Att'y.*
JOHN HART,
By E. MAYES, *Att'y.*
EDWARD MAYES.

[Endorsed:] 9206. Yazoo & Miss. Valley Railroad Co. *et als.*, pl'ffs in error, *v.* Wirt Adams, State revenue agent, def't in error. Assignment of errors. Filed May 12, 1899. E. W. Brown, clerk, by C. C. Campbell, D. C.

72 To fees for this record..... ... . $40.70

Paid by Y. & M. V. R. R. Co., per Mayes & Harris, att'ys.

E. W. BROWN, *Clerk*,
By C. C. CAMPBELL, *D. C.*

Endorsed on cover: File No., 17,438. Mississippi supreme court. Term No., 324. The Yazoo and Mississippi Valley Railroad Company *et al.*, plaintiffs in error, *vs.* Wirt Adams, State revenue agent. Filed June 6th, 1899.